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STATEMENT OF PROPERTY ASSESSED *for the year 1901, in the Several Counties of the State of Illinois, as returned to the Auditor's Office. Compiled for the Use of the State Board of Equalization.*

DISTRICTS.	COUNTIES.	HORSES.			CATTLE.			MULES AND ASSES.		
		No.	Value.	Av.	No.	Value.	Av.	No.	Value.	Av.
1 2 3 4 5 6 7	Cook	23,456	$354,982	$15 13	38,556	$202,148	$5 24	151	$1,075	$7 12
	Lake	10,070	110,966	11 02	36,615	173,672	4 75	56	445	7 95
	Total	33,526	$465,948	.....	75,171	$375,820	.....	207	$1,520	.....
8	DeKalb	18,027	193,645	10 74	51,266	244,223	4 76	192	2,085	10 86
	DuPage	7,821	94,534	12 09	27,503	146,180	5 31	49	450	9 18
	Grundy	10,916	110,545	10 12	16,436	73,399	4 47	420	3,788	8 81
	Kane	14,677	152,984	10 42	53,159	285,355	5 37	123	990	8 02
	Kendall	8,416	99,685	11 84	19,307	83,633	4 33	46	705	17 28
	McHenry	14,645	175,816	12 01	72,565	384,591	5 30	58	698	12 03
	Total	74,502	$927,209	.....	240,236	$1,217,381	.....	888	$8,802	.....
9	Boone	7,919	88,130	10 50	27,423	118,961	4 34	27	264	9 78
	Carroll	10,061	98,624	9 80	37,184	162,268	4 36	210	2,480	11 81
	Jo Daviess	10,699	107,280	10 03	48,334	233,191	4 82	171	2,208	12 91
	Lee	20,805	187,277	9 00	53,968	206,024	3 82	353	3,335	9 42
	Ogle	20,869	208,513	9 99	59,253	242,742	4 10	193	1,571	9 79
	Stephenson	13,762	151,222	10 99	44,403	189,750	4 27	164	1,677	10 16
	Winnebago	12,088	121,278	10 03	37,580	164,206	4 37	110	1,148	9 92
	Total	96,203	$957,314	.....	308,145	$1,317,142	.....	1,233	$12,978	.....
10	Henry	19,711	215,368	10 93	60,100	285,771	4 75	703	8,041	11 42
	Knox	17,612	166,267	9 44	45,214	225,238	4 98	636	6,658	11 04
	Mercer	13,589	149,746	11 06	37,027	199,691	5 39	750	8,385	11 18
	Rock Island	11,816	115,509	9 77	27,572	119,227	4 32	208	2,303	11 07
	Stark	8,069	88,506	10 97	16,140	76,827	4 76	137	2,202	14 72
	Whiteside	17,705	168,433	9 51	52,588	211,584	4 02	364	4,006	11 00
	Total	88,452	$903,829	.....	238,641	$1,118,338	.....	2,829	$32,735	.....
11	Bureau	23,011	274,375	11 92	57,256	267,731	4 68	1,072	12,118	11 30
	LaSalle	30,686	389,404	12 69	51,435	245,056	4 59	656	7,217	11 00
	Livingston	25,036	324,250	12 15	34,492	155,859	4 52	1,503	18,465	12 28
	Woodford	14,287	166,460	11 65	23,768	108,733	4 57	953	8,038	77
	Total	94,680	$1,154,489		166,951	$768,262		4,774	$45,838	
12	Iroquois	25,830	297,267	11 51	39,329	177,093	4 50	1,142	12,819	11 23
	Kankakee	15,460	147,163	9 52	25,736	101,205	3 93	381	3,049	8 00
	Vermilion	24,547	280,440	11 42	36,746	191,376	5 29	1,706	21,007	12 31
	Will	20,926	228,869	10 94	43,456	180,222	4 35	216	1,600	7 41
	Total	86,763	$953,739		145,267	$681,896		3,445	$38,475	.....
13	Champaign	26,449	312,610	11 82	36,501	185,379	4 97	2,573	34,110	13 22
	DeWitt	10,119	105,130	10 42	14,305	77,881	5 41	558	8,094	14 69
	Douglas	11,122	99,505	8 95	16,266	81,545	5 11	903	9,540	10 24
	Ford	12,780	165,555	12 93	16,395	75,514	4 6	882	12,474	14 14
	McLean	32,476	338,516	10 42	52,080	275,506	5 29	2,776	26,993	11 86
	Piatt	11,314	136,360	12 17	16,177	80,683	5 48	1,586	16,540	9 81
	Total	104,276	$1,158,576		151,824	$775,513		9,278	$108,159	

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Statement—Continued.

Districts.	Counties.	Horses.			Cattle.			Mules and Asses.		
		No.	Value.	Av.	No.	Value.	Av.	No.	Value.	Av.
14	Fulton	16,695	$207,405	$12 42	46,332	$ 234,575	$5 06	731	$ 7,532	$10 30
	Marshall	9,341	106,432	11 39	17,085	77,548	4 54	384	4,376	11 40
	Mason	8,007	76,901	9 60	11,863	51,975	4 38	1,652	17,544	10 62
	Peoria	16,072	168,055	10 46	39,176	201,584	5 15	684	7,712	11 27
	Putnam	3,445	35,458	10 29	7,907	34,153	4 32	64	862	13 47
	Tazewell	16,127	137,561	8 53	28,081	114,712	4 09	1 024	8,700	8 50
	Total	69,687	$731,812	.....	150,444	$714,547	.....	4,539	$46,726	.....
15	Adams	16,665	159,463	9 57	34,840	155,789	4 47	1,829	22,930	12 54
	Brown	6,082	46,914	7 71	12,668	57,586	4 54	329	3,558	10 81
	Hancock	8,287	156,160	18 84	47,445	220,695	4 65	880	9,180	10 43
	Henderson	7,118	75,691	10 63	21,559	123,983	5 75	394	5,074	12 87
	McDonough	15,899	154,663	9 72	36,621	187,961	5 13	841	11,011	13 09
	Schuyler	9,178	73,127	7 97	21,852	97,013	4 44	412	4,229	10 26
	Warren	13,629	127,221	9 33	37,498	198,867	5 30	643	7,495	11 66
	Total	76,858	$793,239	.....	212,483	$1,041,894	.....	5,328	$63,477	.....
16	Calhoun	2,972	28,531	9 60	4,236	20,592	4 86	702	6,428	9 16
	Cass	7,373	70,454	9 56	16,829	101,561	6 03	832	10,862	13 06
	Greene	8,359	73,961	8 85	26,432	126,036	4 77	865	8,644	10 00
	Jersey	6,378	50,591	7 93	11,975	47,846	4 00	389	3,305	8 50
	Macoupin	18,668	159,161	8 53	39,158	183,469	4 69	1,545	16,355	10 59
	Morgan	12,937	125,667	9 71	24,071	295,325	6 03	1,002	12,895	12 87
	Pike	13,012	110,668	8 51	32,218	154,759	4 80	1,262	11,660	9 24
	Scott	4,740	33,095	6 98	8,221	39,848	4 85	266	2,031	7 64
	Total	74,439	$652,128	.....	173,140	$879,446	.....	6,863	$72,180	.....
17	Christian	28,668	$175,879	9 42	30,898	$151,724	4 91	2,867	$34,109	11 89
	Logan	13,150	163,983	12 47	17,963	107,345	5 98	1,340	18,417	13 74
	Macon	16,077	187,092	11 64	22,446	116,992	5 21	1,985	27,467	13 84
	Menard	5,700	61,191	10 74	18,078	102,185	5 65	684	8,859	12 95
	Sangamon	24,234	234,087	9 66	48,878	266,000	5 44	2,793	33,801	12 10
	Total	77,829	$822,232	.....	138,263	$744,246	.....	9,669	$122,653	.....
18	Bond	7,237	51,297	7 09	15,145	58,217	3 84	727	6,430	8 84
	Fayette	13,287	116,380	8 76	21,195	87,095	4 11	883	8,176	9 26
	Madison	11,727	113,816	9 71	21,036	99,703	4 74	3,195	38,026	11 90
	Montgomery	15,216	136,469	8 97	26,876	120,572	4 49	1,630	18,669	11 45
	Moultrie	8,891	89,814	10 10	12,795	63,966	5 00	893	9,917	11 11
	Shelby	19,146	170,493	8 91	31,013	147,270	4 75	1,315	14,622	11 12
	Total	75,504	$678,269	.....	128,060	$576,823	.....	8,643	$95,840	.....
19	Clark	10,964	84,491	7 71	18,174	68,889	3 71	515	4,755	9 23
	Coles	12,761	133,428	10 46	21,061	109,098	5 18	1,008	14,659	14 54
	Crawford	9,811	77,249	7 87	13,755	55,173	4 01	370	3,652	9 87
	Cumberland	7,819	66,967	8 56	11,218	50,268	4 48	586	5,418	9 42
	Edgar	15,819	164,827	10 42	28,490	154,704	5 43	1,423	19,533	13 73
	Effingham	8,838	79,306	8 97	16,593	63,322	3 82	562	4,786	8 52
	Jasper	9,767	86,165	8 82	14,671	57,188	3 90	477	4,226	8 86
	Lawrence	6,226	59,275	9 54	9,348	35,934	3 84	729	8,459	11 60
	Richland	6,584	83,566	12 69	10,516	54,342	5 16	402	5,150	12 81
	Total	98,589	$835,274	.....	143,826	$648,918	.....	6,072	$76,638	.....
20	Clay	8,958	75,171	8 39	16,832	67,099	3 98	607	5,428	8 94
	Edwards	4,294	41,528	9 67	8,882	35,333	3 80	592	5,999	10 13
	Franklin	6,780	66,107	9 75	11,250	41,738	3 71	1,678	18,369	10 94
	Gallatin	4,312	36,991	8 58	5,929	20,298	3 42	1,648	16,362	9 93
	Hamilton	8,177	68,308	8 35	13,604	46,117	3 39	1,453	14,186	9 76
	Hardin	2,039	17,113	8 39	3,260	11,746	3 60	822	7,702	9 37
	Jefferson	9,475	90,536	9 56	15,832	66,962	4 23	1,946	18,705	9 61
	Wabash	3,884	37,280	9 60	6,870	24,567	3 58	680	7,455	10 96
	Wayne	11,276	95,995	8 51	23,431	82,676	3 53	1,503	13,[illegible]	[illegible]
	White	7,535	55,657	7 39	14,309	44,979	3 14	2,521	[illegible]	8 96
	Total	66,730	$584,686	.....	120,199	$441,515	.....	13,450	$129,172	.....

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Statement.—Concluded.

Districts.	Counties.	Horses.			Cattle.			Mules and Asses.		
		No.	Value.	Av.	No.	Value.	Av.	No.	Value.	Av.
21	Clinton	7,724	56,224	7 28	12,901	49,383	3 83	1,265	9,741	7 70
	Marion	10,447	77,490	7 42	17,351	64,606	3 72	1,442	12,160	8 43
	Monroe	3,356	37,035	11 04	5,058	21,318	4 21	2,548	33,148	13 01
	Perry	5,453	52,033	9 54	7,597	30,635	4 03	955	9,161	9 59
	Randolph	9,070	77,079	8 50	2,823	41,505	3 24	2,218	22,262	10 04
	St. Clair	12,010	112,096	9 33	14,937	59,346	3 98	5,407	56,975	10 54
	Washington	7,866	69,821	8 88	13,662	47,579	3 48	1,674	17,374	10 38
	Total	55,926	$481,778	.....	74,329	$314,372	.....	15,509	$160,821	.....
22	Alexander	1,701	14,953	8 79	1,965	7,199	3 66	1,241	12,095	9 75
	Jackson	6,844	61,058	8 92	11,158	38,961	3 49	2,469	25,535	10 34
	Johnson	3,944	42,001	10 65	6,444	25,485	3 95	1,429	17,287	12 10
	Massac	2,534	24,360	9 61	5,071	16,841	3 32	1,609	17,513	10 88
	Pope	4,205	43,310	10 30	6,739	22,791	3 38	1,546	17,358	11 22
	Pulaski	2,242	24,354	10 86	2,569	14,954	5 82	981	10,710	10 92
	Union	5,283	51,823	9 81	7,726	26,004	3 37	2,074	22,804	11 00
	Saline	6,778	58,660	8 65	10,536	36,569	3 47	2,213	24,169	10 92
	Williamson	6,977	67,639	9 69	10,214	42,844	4 19	2,464	31,485	12 78
	Total	40,508	$388,158	.....	62,422	$231,648	.....	16,026	$178,956	.....
	Grand agg.	1204,472	$12,388,671	$10 29	2529,401	$11,827,731	$4 68	107 413	$1,188,831	$11 08

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Statement—Continued.

District.	Counties.	Sheep.			Hogs.			Steam Engines, including Boilers.		
		No.	Value.	Av.	No.	Value.	Av.	No.	Value.	Av.
1										
2										
3	Cook	669	$576	$0 86	12,338	$13,440	$1 09	1,183	$156,569	$132 35
4	Lake	12,118	7,375	61	15,525	19,469	1 25	179	23,020	128 60
5										
6										
7	Total	12,787	$7,951	.....	27,863	$32,909	.....	1,362	$179,589	.....
8	DeKalb	10,415	8,872	85	38,670	69,831	1 81	201	18,306	91 07
	DuPage	930	669	72	13,707	15,473	1 12	122	5,678	46 54
	Grundy	3,904	2,267	58	10,648	13,954	1 31	144	14,825	102 96
	Kane	7,406	5,372	73	21,300	30,424	1 43	347	37,576	108 29
	Kendall	4,464	4,276	96	12,349	20,201	1 64	75	3,416	45 55
	McHenry	9,033	6,733	75	31,610	47,865	1 50	179	11,543	64 49
	Total	36,152	$28,189	.....	128,284	$197,748	.....	1,068	$91,344	.....
9	Boone	6,360	4,057	64	16,532	24,886	1 51	91	6,878	75 58
	Carroll	4,756	3,456	73	28,448	47,532	1 67	53	2,581	48 70
	Jo Daviess	13,183	10,818	82	30,180	48,142	1 60	64	3,075	48 05
	Lee	4,659	3,084	66	33,612	35,904	1 07	165	10,966	66 46
	Ogle	9,598	7,474	78	33,812	54,433	1 62	163	40,696	249 67
	Stephenson	12,760	10,692	84	30,927	49,134	1 57	146	9,602	65 76
	Winnebago	10,755	7,969	74	22,764	37,482	1 65	109	8,039	73 75
	Total	62,071	$47,550	.....	196,275	$297,513	.....	791	$81,837	.....
10	Henry	10,304	7,638	74	54,552	98,613	1 81	96	6,590	68 65
	Knox	6,367	4,553	71	42,806	66,152	1 54	147	12,036	81 88
	Mercer	7,579	6,837	90	47,497	76,367	1 60	120	7,198	59 98
	Rock Island	4,547	3,161	69	28,274	39,156	1 38	180	33,007	183 37
	Stark	8,399	7,293	87	17,328	31,443	1 81	67	4,072	60 78
	Whiteside	6,677	4,872	73	35,276	57,497	1 63	156	14,726	94
	Total	43,873	$34,354	.....	225,793	$369,228	.....	766	$77,629	.....
11	Bureau	9,079	8,669	95	46,344	84,048	1 82	264	18,669	70 72
	LaSalle	10,299	8,908	86	33,465	52,770	1 58	367	42,641	116 18
	Livingston	5,651	4,501	80	33,685	49,890	1 48	277	23,894	86 26
	Woodford	2,482	1,919	77	20,691	31,414	1 52	166	10,147	61 13
	Total	27,511	$23,997	.....	134,185	$218,122	.....	1,074	$95,351	.....
12	Iroquois	6,098	4,706	77	34,416	39,349	1 14	269	16,793	62 43
	Kankakee	2,689	1,705	63	14,430	18,026	1 25	173	10,003	57 82
	Vermilion	21,553	13,293	62	42,942	53,426	1 24	218	12,489	57 29
	Will	3,483	2,623	75	19,765	25,649	1 29	401	129,822	323 75
	Total	33,823	$22,327	.....	111,553	$136,450	.....	1,061	$169,107	.....
13	Champaign	10,095	6,298	62	38,764	51,720	1 33	283	20,792	73 47
	DeWitt	8,835	6,252	71	22,786	31,299	1 38	70	3,500	150 00
	Douglas	3,394	2,179	64	24,317	24,629	1 01	172	6,840	39 77
	Ford	4,017	3,513	87	16,964	26,729	1 57	105	11,204	106 70
	McLean	20,445	14,266	70	65,948	98,107	1 49	294	22,657	77 06
	Piatt	5,549	3,487	63	22,910	31,255	1 36	84	4,808	57 24
	Total	52,335	$35,995	.....	191,689	$263,739	.....	1,008	$69,801	.....
14	Fulton	12,831	9,698	76	62,431	92,104	1 48	171	12,288	71 85
	Marshall	4,179	2,990	72	17,445	26,529	1 54	91	8,988	98 55
	Mason	446	261	59	15,587	18,093	1 16	102	5,617	55 07
	Peoria	3,969	2,781	70	28,569	46,152	1 61	363	75,982	209 04
	Putnam	1,985	1,672	84	7,520	11,226	1 49	26	1,725	66 35
	Tazewell	6,467	3,942	61	27,112	26,107	96	191	11,794	61 75
	Total	29,877	$21,344	.....	158,664	$220,511	.....	944	$116,375	.....

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Statement—Continued.

DISTRICTS.	COUNTIES.	SHEEP.			HOGS.			STEAM ENGINES, INCLUDING BOILERS.		
		No.	Value.	Av.	No.	Value.	Av.	No.	Valve.	Av.
15	Adams	14,203	$10,347	$0 73	54,068	$61,289	$1 13	238	$19,265	$80 95
	Brown	5,912	3,905	66	19,178	22,139	1 15	50	1,276	25 52
	Hancock	6,551	3,918	60	45,653	58,880	1 29	108	4,853	44 94
	Henderson	2,114	2,034	96	25,371	34,142	1 35	35	1,547	44 20
	McDonough	5,116	3,366	66	62,012	79,999	1 29	102	4,035	39 56
	Schuyler	3,255	1,920	59	33,450	37,318	1 12	74	1,991	26 91
	Warren	5,093	3,803	75	46,490	67,003	1 44	102	5,800	56 86
	Total	42,244	$29,293	.....	286,222	$360,770	.....	709	$38,767	.....
16	Calhoun	438	320	73	581	9,607	91	42	2,778	66 14
	Cass	1,143	795	70	22,122	28,494	1 29	65	4,922	75 72
	Greene	6,385	4,068	64	29,353	29,219	1 00	63	2,491	39 54
	Jersey	3,313	2,254	68	24,175	21,362	88	52	2,218	42 65
	Macoupin	20,457	15,385	75	50,299	56,350	1 12	163	9,322	57 19
	Morgan	7,927	6,259	79	41,946	57,384	1 37	83	4,798	57 81
	Pike	20,237	13,995	69	44,945	50,261	1 12	98	2,835	28 93
	Scott	1,442	785	54	18,362	20,990	1 14	20	788	39 40
	Total	61,342	$43,861	.....	231,783	$273,667	.....	586	$30,152	.....
17	Christian	7,699	5,929	77	44,997	53,636	1 19	163	8,653	53 09
	Logan	3,741	3,377	90	27,239	38,715	1 42	144	8,619	59 85
	Macon	4,358	3,281	75	30,540	44,011	1 44	200	18,027	90 14
	Menard	3,617	2,655	73	19,910	27,204	1 37	64	4,054	63 34
	Sangamon	10,506	7,811	74	57,886	74,944	1 29	349	31,955	91 51
	Total	29,921	$23,053	.....	180,572	$238,510	.....	920	$71,308	.....
18	Bond	5,647	3,200	57	11,418	8,983	79	60	2,449	40 82
	Fayette	10,146	6,585	65	22,710	19,344	85	105	4,168	39 70
	Madison	4,840	3,119	64	26,936	25,020	93	231	47,856	207 17
	Montgomery	10,297	6,075	59	34,351	36,213	1 06	150	7,126	47 51
	Moultrie	3,026	3,024	1 00	15,689	20,716	1 32	87	3,490	40 11
	Shelby	18,063	11,472	64	40,457	55,163	1 17	157	7,269	46 30
	Total	52,019	$33,475	.....	157,561	$165,379	.....	790	$72,358	.....
19	Clark	11,384	6,772	59	28,661	25,172	88	69	2,503	36 28
	Coles	6,061	3,911	65	29,414	29,990	1 02	226	9,173	40 59
	Crawford	17,070	11,285	66	25,607	22,213	87	71	2,685	37 82
	Cumberland	3,430	1,843	54	15,192	15,400	1 01	64	2,380	37 19
	Edgar	10,817	7,608	70	38,718	44,966	1 16	112	5,294	47 27
	Effingham	4,142	2,540	61	19,041	15,071	79	120	4,016	33 47
	Jasper	10,328	7,352	71	19,603	18,464	94	51	2,124	41 65
	Lawrence	5,842	3,430	59	11,901	10,001	84	71	3,034	42 73
	Richland	7,223	6,411	89	11,575	12,653	1 09	85	5,395	63 46
	Total	76,297	$51,152	.....	199,712	$193,930	.....	869	$36,604	.....
20	Clay	6,483	4,122	64	16,769	13,312	79	77	3,153	40 95
	Edwards	7,867	5,461	69	12,289	10,952	89	43	2,307	53 65
	Franklin	3,675	2,293	62	16,365	11,096	68	44	1,547	35 16
	Gallatin	1,383	826	60	9,809	6,275	64	64	4,376	68 38
	Hamilton	6,419	3,334	52	24,026	14,147	59	63	2,797	44 40
	Hardin	1,046	596	52	7,119	4,252	60	11	1,538	139 82
	Jefferson	7,885	5,170	66	20,110	16,067	80	59	2,675	45 34
	Wabash	2,450	1,426	58	11,522	5,042	44	63	2,483	39 41
	Wayne	14,994	8,627	58	20,539	14,249	69	93	3,885	41 77
	White	4,208	2,423	58	24,273	16,670	69	84	2,808	33 43
	Total	56,380	$34,208	.....	163,121	$112,061	.....	601	$27,569	.....
21	Clinton	3,661	2,050	56	13,334	9,321	70	120	5,955	49 63
	Marion	8,899	5,304	59	18,447	13,182	66	63	1,335	21 19
	Monroe	1,048	634	60	15,436	10,685	69	99	6,341	64 05
	Perry	1,770	1,070	61	6,832	5,894	86	101	4,810	47 62
	Randolph	3,142	1,875	60	18,114	13,153	73	221	11,600	52 49
	St. Clair	1,834	1,005	55	21,379	15,696	73	374	55,610	148 69
	Washington	2,709	1,421	52	13,122	9,629	73	100	3,407	34 07
	Total	23,063	$13,359	.....	106,664	$76,560	.....	1,078	$89,058	.....

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Statement—Continued.

Districts.	Counties.	Sheep.			Hogs.			Steam Engines, Including Boilers.		
		No.	Value.	Av.	No.	Value.	Av.	No.	Value.	Av.
22	Alexander	309	$327	$1 06	3,752	$2,264	$0 60	49	$2,733	$55 78
	Jackson	1,067	1,449	98	15,488	9,745	63	127	15,355	120 91
	Johnson	1,539	1,416	76	9,614	7,469	78	47	3,159	67 21
	Massac	960	601	63	7,368	4,333	59	73	4,957	67 90
	Pope	3,391	1,962	58	11,757	6,290	54	52	2,789	52 67
	Pulaski	300	294	98	2,555	2,855	1 00	12	3,343	278 58
	Union	1,374	1,046	76	12,827	9,663	75	62	4,541	73 24
	Saline	2,424	1,354	56	17,312	11,124	64	64	3,300	51 56
	Williamson	2,269	1,406	62	17,838	11,109	62	113	10,898	96 44
	Total	13,933	$9,455	.....	98,811	$64,552	.....	599	$51,075	.....
	Grand agg	653,628	$459,563	$0 70	2,598,752	$3,221,949	$1 24	14,226	$1,297,924	$91 24

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Statement—Continued.

DISTRICTS.	COUNTIES.	FIRE AND BURGLAR-PROOF SAFES.			BILLIARD, PIGEON-HOLE, ETC., TABLES.			CARRIAGES AND WAGONS.		
		No.	Value.	Av.	No.	Value.	Av.	No.	Value.	Av.
1 2 3 4 5 6 7	Cook	2,604	$24,690	$9 48	1,134	$9,043	$7 97	28,827	$245,955	$8 53
	Lake	232	1,286	5 54	50	722	14 44	6,885	32,332	4 70
	Total	2,836	$25,976	.....	1,184	$9,765	.....	35,712	$278,287	.....
8	DeKalb	235	2,471	10 51	25	252	10 80	7,777	41,551	5 34
	DuPage	149	1,173	7 87	46	277	6 02	5,018	23,530	4 69
	Grundy	150	1,164	7 76	12	101	8 42	4,045	18,200	4 49
	Kane	607	4,491	7 40	72	930	12 92	10,032	51,215	5 12
	Kendall	15	137	9 13	7	62	8 86	3,276	16,731	5 11
	McHenry	165	1,638	9 93	43	562	13 07	8,898	41,347	4 67
	Total	1,321	$11,074	.....	205	$2,184	.....	39,036	$192,674	.....
9	Boone	103	605	5 87	29	313	10 79	4,211	18,466	4 39
	Carroll	85	585	6 88	23	156	6 78	4,068	18,268	4 49
	JoDaviess	142	870	6 13	10	64	6 40	4,790	19,856	4 15
	Lee	284	2,045	7 20	26	286	11 00	8,708	38,329	4 40
	Ogle	193	1,890	9 79	40	232	5 80	8,991	10,531	1 17
	Stephenson	151	1,296	8 58	25	258	10 32	7,017	33,113	4 72
	Winnebago	270	1,843	6 83	39	491	12 59	6,391	32,928	3 16
	Total	1,228	$9,134	.....	192	$1,800	.....	44,166	$171,491	.....
10	Henry	127	1,647	12 97	24	237	9 88	7,927	38,169	4 81
	Knox	189	1,586	8 40	47	663	14 11	5,809	34,217	5 89
	Mercer	102	1,331	13 04	27	198	7 33	4,271	20,670	4 84
	Rock Island	156	1,329	8 52	44	617	14 02	5,277	29,498	5 59
	Stark	46	523	11 37	14	129	2 91	3,100	14,624	4 72
	Whiteside	136	969	7 13	44	643	14 61	7,530	32,981	4 38
	Total	756	$7,385	.....	200	$2,187	.....	33,914	$170,009	.....
11	Bureau	202	1,686	8 35	43	458	10 65	8,780	45,052	5 13
	LaSalle	542	4,050	7 47	80	825	10 31	12,641	79,052	6 26
	Livingston	203	2,433	11 99	46	501	10 89	10,364	51,873	5 01
	Woodford	135	1,100	8 15	11	98	8 91	6,158	27,214	4 42
	Total	1,082	$9,269	.....	180	$1,882	.....	37,933	$203,191	.....
12	Iroquois	156	2,429	15 57	36	476	13 22	9,970	47,095	4 71
	Kankakee	192	2,271	11 83	35	312	8 91	6,176	29,826	4 83
	Vermillion	289	2,201	7 62	38	358	9 42	13,137	53,867	4 10
	Will	345	2,730	7 91	46	637	13 85	10,625	51,738	5 16
	Total	982	$9,631	.....	155	$1,783	.....	39,308	$182,526	.....
13	Champaign	272	2,675	9 83	41	456	11 12	12,163	57,063	4 69
	DeWitt	30	316	10 53	22	242	11 00	3,727	16,117	4 32
	Douglas	116	748	6 45	3	45	15 00	5,035	19,919	3 96
	Ford	120	1,810	15 08	20	202	10 10	5,011	27,517	5 49
	McLean	328	3,812	11 62	41	357	8 71	13,198	62,052	470
	Piatt	80	1,849	23 11	1	15	15 00	5,524	22,196	4 02
	Total	946	$11,210	.....	128	$1,317	.....	44,658	$204,864	.....
14	Fulton	231	2,087	9 04	25	301	12 04	8,284	34,434	4 16
	Marshall	82	495	6 04	17	107	6 29	3,722	16,947	4 55
	Mason	131	916	6 99	9	62	6 89	3,652	13,158	3 60
	Peoria	542	4,889	9 02	98	1,068	10 90	8,242	45,460	5 52
	Putnam	6	143	23 83	.....	.....	.....	962	4,233	4 40
	Tazewell	276	2,235	8 09	22	157	7 14	7,250	29,766	4 11
	Total	1,268	$10,765	.....	171	$1,695	.....	32,112	$144,025	.....

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Statement—Continued.

DISTRICT.	COUNTIES.	FIRE AND BURGLAR-PROOF SAFES.			BILLIARD, PIGEON-HOLE, ETC., TABLES.			CARRIAGES AND WAGONS.		
		No.	Value.	Av.	No.	Value.	Av.	No.	Value.	Av.
15	Adams	391	$3,279	$8 38	48	$518	$10 79	9,958	$53,556	$5 38
	Brown	27	288	10 67	3	25	8 33	2,606	7,673	2 95
	Hancock	142	1,902	13 39	17	113	6 65	7,781	28,021	3 60
	Henderson	19	253	13 32	5	80	13 33	2,209	11,197	5 07
	McDonough	129	1,608	12 47	11	78	7 09	6,829	24,931	3 65
	Schuyler	24	200	8 33	5	40	8 00	3,744	12,997	3 47
	Warren	52	629	12 10	34	385	11 32	4,672	20,644	4 41
	Total	784	$8,159	.....	124	$1,239	.....	37,799	$159,019	.....
16	Calhoun	32	131	4 09	6	38	6 33	1,662	5,853	3 52
	Cass	132	1,170	8 86	17	136	8 00	3,431	14,925	4 35
	Greene	40	1,172	29 30	9	72	8 00	3,222	12,623	3 92
	Jersey	86	671	7 80	12	59	4 92	3,083	9,019	2 93
	Macoupin	229	2,335	10 19	26	155	5 96	7,221	5,510	76
	Morgan	204	2,212	10 84	28	277	9 89	5,920	30,730	5 19
	Pike	80	579	7 24	2	20	10 00	5,615	19,240	3 43
	Scott	41	920	22 44	4	15	3 75	2,222	6,989	3 15
	Total	844	$9,181	.....	104	$772	.....	32,376	$104,889	.....
17	Christian	190	2,406	12 66	22	251	11 41	7,231	26,220	3 63
	Logan	143	1,445	10 10	47	295	6 28	5,739	28,306	4 93
	Macon	261	2,520	9 66	33	214	6 48	7,704	39,785	5 16
	Menard	74	639	8 64	9	175	19 44	2,433	10,997	4 52
	Sangamon	452	3,570	7 90	30	271	9 03	11,482	50,180	4 37
	Total	1,120	$10,580	.....	141	$1,206	.....	34,589	$155,488	.....
18	Bond	26	201	7 73	5	84	16 80	2,805	8,437	3 01
	Fayette	72	961	13 35	6	40	6 67	6,221	20,362	3 27
	Madison	194	2,202	11 35	51	375	7 35	7,041	29,929	4 25
	Montgomery	124	1,145	9 23	10	190	19 00	6,440	20,320	3 16
	Moultrie	43	911	21 19	14	172	12 29	3,374	12,576	3 73
	Shelby	105	1,287	12 26	13	97	7 46	8,712	29,884	3 43
	Total	564	$6,707	.....	99	$958	.....	34,593	$121,508	.....
19	Clark	69	457	6 60	1	3	3 00	5,140	16,730	3 25
	Coles	109	551	5 06	11	145	13 20	5,918	22,304	3 94
	Crawford	54	525	9 72	3	30	10 00	4,580	17,591	3 84
	Cumberland	45	721	16 02	3	83	27 66	3,475	13,283	3 82
	Edgar	122	636	5 21	33	279	8 45	7,378	31,794	4 31
	Effingham	85	789	9 28	25	150	6 00	4,485	16,080	3 59
	Jasper	25	474	18 96	3	22	7 33	4,179	16,524	3 95
	Lawrence	39	391	10 02	5	23	4 60	3,398	11,873	3 21
	Richland	75	712	9 49	4	21	5 25	3,398	16,634	4 91
	Total	623	$5,256	.....	88	$756	.....	41,931	$163,813	.....
20	Clay	45	934	20 76	10	57	5 70	4,366	15,416	3 53
	Edwards	47	517	11 00	.....	.....	.....	2,702	9,936	3 68
	Franklin	18	159	8 83	2	10	5 00	3,408	13,448	3 95
	Gallatin	53	596	11 24	6	43	7 17	2,031	8,012	3 94
	Hamilton	35	313	8 94	.....	.....	.....	3,807	11,679	3 07
	Hardin	13	166	12 77	.....	.....	.....	983	3,839	3 91
	Jefferson	32	341	10 65	5	25	5 00	4,247	17,851	4 20
	Wabash	29	181	6 24	8	60	7 50	2,372	8,743	3 96
	Wayne	71	663	9 34	1	4	4 00	4,983	18,655	3 74
	White	117	961	8 13	19	104	5 47	3,999	12,644	3 16
	Total	460	$4,821	.....	51	$303	.....	32,898	$120,223	.....
21	Clinton	73	516	7 07	34	185	5 44	4,609	11,201	2 43
	Marion	107	733	6 85	12	109	9 08	5,092	16,184	3 18
	Monroe	38	301	7 92	13	97	7 46	2,914	12,429	4 27
	Perry	66	731	11 08	13	91	7 00	2,803	11,267	4 00
	Randolph	130	1,314	10 11	16	74	4 63	5,605	18,593	3 32
	St. Clair	482	3,070	6 37	54	368	6 81	9,054	45,775	5 06
	Washington	48	364	7 58	8	49	6 13	4,197	12,315	2 93
	Total	944	$7,029	.....	150	$973	.....	34,274	$127,764	.....

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Statement—Continued.

Districts.	Counties.	Fire and Burglar-proof Safes.			Billiard, Pigeon-hole, etc., Tables.			Carriages and Wagons.		
		No.	Value.	Av.	No.	Value.	Av.	No.	Value.	Av.
22	Alexander	169	$1,168	$6 91	16	$165	$10 31	1,400	$6,119	$4 37
	Jackson	110	742	6 75	10	75	7 50	3,978	12,898	3 24
	Johnson	34	493	14 50	.....	.....	.....	2,266	8,103	3 58
	Massac	56	409	7 30	4	48	12 00	2,201	8,492	3 86
	Pope	48	252	5 25	3	25	8 33	2,157	9,033	4 19
	Pulaski	14	112	8 00	7	85	12 00	1,476	4,713	3 13
	Union	77	885	11 49	2	12	6 00	3,956	16,037	4 05
	Saline	64	784	12 25	.....	.....	.....	3,248	12,425	3 82
	Williamson	68	1,081	15 90	4	76	19 00	3,934	16,891	4 29
	Total	640	$5,926	.....	46	$486	.....	24,616	$94,711	.....
	Grand agg	15,398	$152,110	$9 88	3,218	$29,606	$9 20	579,915	$2,594,473	$4 47

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Statement—Continued.

Districts.	Counties.	Watches and Clocks.			Sewing and Knitting Machines.			Pianos.		
		No.	Value.	Av.	No.	Value.	Av.	No.	Value.	Av.
1										
2										
3	Cook	18,955	$69,243	$3 65	13,010	$31,898	$2 45	9,132	$197,493	$21 63
4	Lake	3,439	6,385	1 86	2,496	5,075	2 03	898	14,941	16 64
5										
6	Total	22,394	$75,628	.....	15,506	$36,973	.....	10,030	$212,434	.....
7										
8	DeKalb	4,474	7,444	1 66	3,063	6,619	2 16	823	18,029	21 91
	DuPage	2,656	5,640	2 12	2,037	3,842	1 89	914	14,483	15 85
	Grundy	2,651	4,064	1 53	1,739	3,815	2 19	374	7,515	20 01
	Kane	12,460	20,196	1 62	7,141	13,121	1 84	2,818	47,261	16 78
	Kendall	168	266	2 18	126	250	1 98	162	3,175	19 60
	McHenry	5,020	7,641	1 52	3,089	6,767	2 19	693	16,404	23 67
	Total	27,429	$45,351	.....	17,195	$34,414	.....	5,784	$106,867	.....
9	Boone	3,804	5,085	1 38	1,903	3,369	1 77	474	8,760	18 48
	Carroll	2,684	3,705	1 38	1,823	3,764	2 06	427	7,761	18 18
	JoDaviess	2,794	3,738	1 34	2,371	4,089	1 72	424	6,950	16 34
	Lee	6,306	9,118	1 45	3,726	7,446	2 00	817	14,427	17 66
	Ogle	4,889	6,883	1 41	3,366	6,302	1 87	711	13,125	18 46
	Stephenson	3,489	5,057	1 45	2,940	6,491	2 21	798	16,062	20 13
	Winnebago	2,134	4,289	2 01	1,651	3,066	1 86	1,367	19,967	14 61
	Total	26,100	$37,875	.....	17,780	$34,527	.....	5,018	$87,032	.....
10	Henry	1,013	1,824	1 80	1,618	3,636	2 25	666	13,849	20 79
	Knox	1,943	5,381	2 77	2,254	5,460	2 42	1,300	22,711	17 47
	Mercer	3,357	6,307	1 88	2,274	4,863	2 14	446	8,842	19 83
	Rock Island	1,063	4,052	3 81	2,160	5,524	2 56	1,364	22,378	16 41
	Stark	2,126	3,179	1 50	1,239	3,140	2 53	280	6,727	24 04
	Whiteside	4,414	5,916	1 34	3,317	6,423	1 94	785	13,236	16 90
	Total	13,916	$26,659	.....	12,862	$29,046	.....	4,839	$87,743	.....
11	Bureau	4,618	6,943	1 50	3,618	7,143	1 97	777	15,061	19 38
	LaSalle	7,190	12,010	1 67	5,566	10,170	1 83	1,656	40,475	24 44
	Livingston	6,044	8,525	1 41	4,693	8,699	1 83	747	16,060	21 50
	Woodford	4,114	4,572	1 11	2,469	4,282	1 73	391	6,243	15 97
	Total	21,966	$32,050	.....	16,346	$30,204	.....	3,571	$77,839	.....
12	Iroquois	5,354	7,303	1 36	4,048	8,275	2 04	615	$10,748	17 48
	Kankakee	2,462	3,915	1 59	2,742	4,930	1 80	764	11,895	15 57
	Vermillion	8,366	11,292	1 35	5,967	10,371	1 74	1,364	21,162	15 51
	Will	4,023	7,058	1 75	3,447	7,060	2 05	1,824	32,021	17 56
	Total	20,205	$29,568	.....	16,204	$30,636	.....	4,567	$75,826	.....
13	Champaign	8,082	12,677	1 57	5,408	10,291	1 90	1,105	22,451	20 32
	DeWitt	1,813	3,382	1 87	1,420	2,805	1 97	369	6,015	17 36
	Douglas	3,354	4,625	1 38	2,138	3,920	1 83	395	8,194	20 75
	Ford	3,964	5,159	1 30	2,537	4,957	1 95	286	8,747	22 66
	McLean	8,178	14,186	1 73	6,500	13,297	2 05	1,955	31,767	16 25
	Piatt	2,625	3,726	1 41	2,159	3,787	1 75	417	8,308	20 21
	Total	28,006	$43,755	.....	20,162	$39,057	.....	4,591	$85,486	.....
14	Fulton	6,239	7,565	1 21	4,543	7,486	1 65	723	12,709	17 58
	Marshall	2,517	3,054	1 21	1,594	2,487	1 56	373	6,541	17 54
	Mason	2,063	2,836	1 37	1,920	3,485	1 82	344	6,591	19 16
	Peoria	5,402	10,945	2 03	4,462	8,878	1 99	2,114	33,119	15 67
	Putnam	48	118	2 46	96	228	2 37	53	870	16 42
	Tazewell	4,854	7,355	1 52	3,137	6,105	1 95	713	12,568	17 63
	Total	21,123	$31,863	.....	15,752	$28,669	.....	4,320	$72,398	.....

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Statement—Continued.

Districts.	Counties.	Watches and Clocks.			Sewing and Knitting Machines.			Pianos.		
		No.	Value.	Av.	No.	Value.	Av.	No.	Value.	Av.
15	Adams	9,390	$11,493	$1 22	7,525	$14,862	$1 98	1,625	$27,781	$17 09
	Brown	1,344	1,386	1 03	1,077	1,413	1 31	127	2,439	16 20
	Hancock	4,715	6,239	1 32	3,765	6,512	1 73	729	10,607	14 55
	Henderson	473	1,166	2 47	579	1,235	2 13	169	4,337	25 66
	McDonough	6,212	6,251	1 01	3,264	5,835	1 79	483	9,432	19 53
	Schuyler	2,530	2,168	86	1,627	2,615	1 61	171	2,762	16 15
	Warren	1,711	3,107	1 82	1,265	3,250	2 57	479	9,455	19 74
	Total	26,375	$31,810		19,102	$35,722		3,783	$66,813	
16	Calhoun	553	905	1 64	791	1,634	2 07	58	1,536	26 48
	Cass	2,319	4,257	1 84	1,931	3,714	1 92	480	10,893	22 63
	Greene	793	1,973	2 49	1,048	3,114	2 97	331	6,551	19 79
	Jersey	1,575	1,981	1 26	1,041	1,583	1 52	250	3,579	14 32
	Macoupin	5,026	6,107	1 22	4,191	6,694	1 60	748	11,750	15 67
	Morgan	4,746	8,629	1 82	3,363	5,862	1 74	1,147	18,649	16 26
	Pike	2,575	3,665	1 42	2,370	3,583	1 51	390	6,249	16 02
	Scott	1,508	906	60	901	1,220	1 35	208	2,696	12 91
	Total	19,095	$28,423		15,636	$27,404		3,612	$61,833	
17	Christian	3,698	4,485	1 21	3,000	5,076	1 69	651	11,473	17 62
	Logan	3,147	4,384	1 39	2,304	4,729	2 05	499	8,717	17 47
	Macon	5,286	11,305	2 14	4,952	11,318	2 29	1,302	23,946	18 39
	Menard	1,160	2,178	1 88	1,140	1,998	1 75	297	5,187	1 75
	Sangamon	8,521	14,650	1 72	7,992	14,395	1 80	2,350	33,163	14 11
	Total	21,812	$37,002		19,388	$37,513		5,099	$82,486	
18	Bond	642	956	1 49	703	1,126	1 60	171	3,103	18 15
	Fayette	3,083	3,396	1 10	2,791	4,870	1 74	171	3,123	18 26
	Madison	3,731	7,578	2 03	2,812	5,922	2 11	573	13,285	23 19
	Montgomery	4,624	4,866	1 05	3,318	4,907	1 48	466	7,648	16 41
	Moultrie	1,803	2,542	1 41	1,470	2,980	2 03	180	3,506	19 48
	Shelby	4,821	5,308	1 11	3,874	6,455	1 67	401	6,855	17 09
	Total	18,704	$24,696		14,968	$26,260		1,962	$37,520	
19	Clark	2,725	2,788	1 03	2,582	4,133	1 60	214	2,763	12 91
	Coles	3,489	4,606	1 32	2,852	5,648	1 98	501	7,966	13 48
	Crawford	3,132	2,418	77	2,147	3,467	1 61	171	3,608	21 10
	Cumberland	2,140	2,336	1 09	1,775	3,249	1 83	99	1,761	17 78
	Edgar	3,524	4,930	1 40	2,703	4,544	1 68	569	8,932	15 70
	Effingham	3,027	2,790	92	2,544	4,771	1 88	258	5,556	17 66
	Jasper	1,932	2,355	1 22	2,037	4,220	2 07	73	1,601	21 93
	Lawrence	1,834	1,881	1 03	1,625	2,660	1 64	119	2,364	19 86
	Richland	2,493	2,751	1 10	1,851	2,753	2 03	179	4,046	22 60
	Total	24,296	$26,864		20,116	$39,445		2,273	$37,597	
20	Clay	2,273	2,494	1 10	2,338	3,808	1 67	212	4,048	19 57
	Edwards	1,725	1,940	1 12	1,362	2,680	1 97	101	2,242	22 19
	Franklin	1,260	1,664	1 13	1,747	3,282	1 88	75	1,465	19 53
	Gallatin	419	711	1 70	995	1,870	1 90	117	2,312	20 62
	Hamilton	2,400	1,758	73	2,016	3,694	1 83	116	1,958	16 88
	Hardin	237	340	1 43	590	1,212	2 03	18	365	20 28
	Jefferson	1,923	2,727	1 42	2,399	4,868	2 03	237	4,029	17 00
	Wabash	1,602	1,802	1 14	1,198	2,327	1 95	185	4,379	23 40
	Wayne	2,566	1,938	76	2,650	4,493	1 70	147	3,138	21 34
	White	1,734	1,877	1 05	2,258	3,763	1 67	222	3,230	14 55
	Total	16,388	$17,351		17,544	$32,077		1,430	$27,111	
21	Clinton	3,343	2,069	62	4,373	3,129	72	196	2,773	14 15
	Marion	2,881	2,559	1 26	2,768	5,114	1 85	422	6,454	15 30
	Monroe	1,776	2,194	1 24	1,475	2,901	1 97	114	1,765	15 48
	Perry	1,280	1,737	1 36	1,922	3,931	2 05	204	3,702	18 59
	Randolph	3,497	4,253	1 22	3,106	5,846	1 88	385	5,433	14 11
	St. Clair	3,049	5,679	1 86	3,331	6,052	1 82	1,080	17,575	16 13
	Washington	2,057	2,121	1 03	1,731	2,633	1 52	153	1,906	12 46
	Total	17,833	$21,612		18,706	$29,606		2,563	$39,608	

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Statement—Continued.

DISTRICTS.	COUNTIES.	WATCHES AND CLOCKS.			SEWING AND KNITTING MACHINES.			PIANOS.		
		No.	Value.	Av.	No.	Value.	Av.	No.	Value.	Av.
22	Alexander	1,124	$2,407	$2 14	1,089	$2,499	$2 29	366	$5,533	$15 28
	Jackson	2,695	3,088	1 15	2,459	4,054	1 65	359	5,203	14 49
	Johnson	1,197	1,458	1 22	347	2,816	8 12	72	1,566	21 75
	Massac	990	1,471	1 49	1,106	2,217	2 00	129	3,198	24 80
	Pope	1,098	1,485	1 85	1 350	2,943	2 18	84	1,705	20 30
	Pulaski	543	802	1 48	640	1,665	2 60	96	2,315	24 11
	Union	2,952	3,690	1 25	2,088	3,869	1 85	231	5,130	22 21
	Saline	1,423	1,805	1 27	1,935	3,402	1 78	138	2,703	19 59
	Williamson	2,422	3,100	1 28	2,848	6,585	2 31	199	4,431	22 27
	Total	14,444	$19,296	.....	13,862	$30,050	.....	1,674	$31,844	.....
	Grand agg.	340,086	$529,803	$1 56	271,129	$518,603	$1 91	65,116	$1,190,533	$18 28

Statement—Continued.

DISTRICTS.	COUNTIES.	MELODEONS AND ORGANS.			FRANCHISES.			ANNUITIES AND ROYALTIES.		
		No.	Value	Av.	No.	Value.	Av.	No.	Value	Av.
1 2 3 4 5 6 7	Cook				13	$1,628	$125 23	26	$34,611	$1331 19
	Lake	593	$2,398	$4 04	1	360	360 00			
	Total	593	$2,398		14	$1,988		26	$34,611	
8	DeKalb	913	4,276	4 68						
	DuPage	368	1,334	3 62	1	8,200	8,200 00	1	480	480 00
	Grundy	551	2,570	4 66	1	16	16 00			
	Kane	1,317	4,583	3 48	1	28	28 00	1	201	201 00
	Kendall	130	520	4 00						
	McKenry	758	3,818	5 04				1	306	306 00
	Total	4,037	$17,101		3	$8,244		3	$987	
9	Boone	662	2,544	3 84				1	80	80 00
	Carroll	767	3,276	4 27						
	Jo Daviess	875	3,579	4 09				1	200	200 00
	Lee	1,183	4,477	3 78				1	360	360 00
	Ogle	1,349	5,546	4 11				3	482	160 66
	Stephenson	1,149	4,908	4 27						
	Winnebago	534	1,898	3 55				1	20	20 00
	Total	6,519	$26,228					7	$1,142	
10	Henry	779	3,924	5 04				1	132	132 00
	Knox	748	3,449	4 61	1	156	156 00	1	20	20 00
	Mercer	697	4,379	6 28	1	200	200 00	1	132	132 00
	Rock Island	865	4,002	4 63	3	1,215	405 00	3	1,840	613 33
	Stark	533	2,745	4 86						
	Whiteside	1,169	4,298	3 68				1	100	100 00
	Total	4,811	$22,797		5	$1,571		7	$2,224	
11	Bureau	1,137	5,415	4 52						
	La Salle	1,392	5,813	4 18						
	Livingston	1,825	7,694	4 22						
	Woodford	873	3,690	4 23	1	140	140 00	1	3	3 00
	Total	5,287	$22,612		1	$140		1	$3	
12	Iroquois	1,554	7,071	4 55	1	18	18 00			
	Kankakee	764	3,275	4 29				1	400	400 00
	Vermilion	2,046	7,732	3 78	1	3,520	3,520 00	1	100	100 00
	Will	999	3,921	3 92				1	60	60 00
	Total	5,363	$21,999		2	$3,538		3	$560	
13	Champaign	1,731	7,676	4 43	1	1,460		1	280	280 00
	DeWitt	602	2,411	4 00						
	Douglas	812	3,395	4 18	1	120	120 00			
	Ford	930	4,249	4 62						
	McLean	2,053	8,500	4 14	1	368	368 00	1	54	54 00
	Piatt	733	3,048	4 15						
	Total	6,851	$29,279		3	$1,948		2	$334	
14	Fulton	1,916	7,375	3 85	1	1,000	1,000 00	1	2,140	2,140 00
	Marshall	500	1,576	3 15						
	Mason	702	2,912	4 15						
	Peoria	1,215	5,445	4 48	1	96	96 00			
	Putnam	76	321	4 22						
	Tazewell	988	3,985	4 03	1	10	10 00	1	160	160 00
	Total	5,397	$21,614		3	$1,106		2	$2,300	

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Statement—Continued.

DISTRICTS.	COUNTIES.	MELODEONS AND ORGANS.			FRANCHISES.			ANNUITIES AND ROYALTIES.		
		No.	Value.	Av.	No.	Value.	Av.	No.	Value.	Av.
15	Adams	1,478	$5,396	$3 65	2	$7	$3 50	.....	.....	.....
	Brown	448	1,085	2 42	1	75	75 00	.....	.....	.....
	Hancock	1,502	5,167	3 31	.....	.....	.....	.....	.....	.....
	Henderson	331	1,659	5 31	.....	.....	.....	.....	.....	.....
	McDonough	1,404	5,613	4 00	.....	.....	.....	.....	.....	.....
	Schuyler	687	2,558	3 72	.....	.....	.....	.....	.....	.....
	Warren	640	2,507	3 92	1	120	120 00	.....	.....	.....
	Total	6,550	$23,985	.....	4	$202	.....	.....	.....	.....
16	Calhoun	151	$66	5 74	4	130	$32 50	1	$10	$10 00
	Cass	439	1,792	4 08	.....	.....	.....	.....	.....	.....
	Greene	427	2,483	5 81	1	1,000	1,000 00	.....	.....	.....
	Jersey	218	824	3 78	.....	.....	.....	.....	.....	.....
	Macoupin	1,427	5,722	4 01	1	21	21 00	1	666	666 00
	Morgan	702	2,403	3 42	.....	.....	.....	1	462	462 00
	Pike	1,038	3,611	3 48	1	6	6 00	.....	.....	.....
	Scott	270	863	2 10	.....	.....	.....	.....	.....	.....
	Total	4,672	$18,564	.....	7	$1,157	.....	3	$1,138	.....
17	Christian	1,130	4,680	4 14	2	143	71 50	4	545	136 25
	Logan	709	3,370	4 75	1	40	40 00	.....	.....	.....
	Macon	1,403	5,967	4 25	.....	.....	.....	.....	.....	.....
	Menard	360	1,503	4 18	.....	.....	.....	.....	.....	.....
	Sangamon	1,493	5,482	3 67	2	10	5 00	2	210	105 00
	Total	5,095	$21,002	.....	5	$193	.....	6	$755	.....
18	Bond	482	1,734	3 60	.....	.....	.....	.....	.....	.....
	Fayette	836	3,642	4 36	1	600	600 00	.....	.....	.....
	Madison	350	1,488	4 25	1	3,500	3,500 00	.....	.....	.....
	Montgomery	1,173	4,729	4 03	.....	.....	.....	.....	.....	.....
	Moultrie	567	2,214	3 90	.....	.....	.....	.....	.....	.....
	Shelby	1,403	6,601	4 70	2	1,436	718 00	.....	.....	.....
	Total	4,811	$20,408	.....	4	$5,536	.....	.....	.....	.....
19	Clark	873	3,737	4 28	.....	.....	.....	.....	.....	.....
	Coles	1,023	3,840	3 75	1	600	600 00	.....	.....	.....
	Crawford	728	3,648	5 01	1	1,000	1,000 00	.....	.....	.....
	Cumberland	679	3,232	4 76	.....	.....	.....	.....	.....	.....
	Edgar	1,013	4,302	4 25	1	100	100 00	.....	.....	.....
	Effingham	649	2,785	4 29	1	20	20 00	.....	.....	.....
	Jasper	763	3,490	4 57	.....	.....	.....	.....	.....	.....
	Lawrence	607	2,935	4 84	1	800	800 00	.....	.....	.....
	Richland	724	4,356	6 02	.....	.....	.....	.....	.....	.....
	Total	7,059	$32,325	.....	5	$2,520	.....	.....	.....	.....
20	Clay	686	3,108	4 47	.....	.....	.....	.....	.....	.....
	Edwards	497	2,280	4 59	.....	.....	.....	1	30	30 00
	Franklin	448	2,164	4 83	.....	.....	.....	.....	.....	.....
	Gallatin	354	1,547	4 37	.....	.....	.....	.....	.....	.....
	Hamilton	473	2,729	5 77	.....	.....	.....	.....	.....	.....
	Hardin	110	725	6 59	.....	.....	.....	.....	.....	.....
	Jefferson	934	4,223	4 50	1	6	6 00	.....	.....	.....
	Wabash	348	1,576	4 53	.....	.....	.....	.....	.....	.....
	Wayne	929	4,383	4 72	.....	.....	.....	.....	.....	.....
	White	783	2,857	3 65	2	400	200 00	.....	.....	.....
	Total	5,572	$25,592	.....	3	$406	.....	1	$30	.....
21	Clinton	346	1,416	4 08	1	10	$10 00	.....	.....	.....
	Marion	980	4,102	4 19	1	5	5 00	1	259	259 00
	Monroe	55	214	3 89	.....	.....	.....	.....	.....	.....
	Perry	483	1,940	4 02	.....	.....	.....	.....	.....	.....
	Randolph	594	2,369	4 20	.....	.....	.....	.....	.....	.....
	St. Clair	901	1,115	3 70	.....	.....	.....	1	1,073	1073 00
	Washington	360	1,251	3 48	.....	.....	.....	.....	.....	.....
	Total	3,089	$12,401	.....	2	$15	.....	2	$1,332	.....

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Statement—Concluded.

District.	Counties.	Melodeons and Organs.			Franchises.			Annuities and Royalties.		
		No.	Value.	Av.	No.	Value.	Av.	No.	Value.	Av.
22	Alexander	165	$900	$5 45	.....	.....	.....	.....	.....	.....
	Jackson	622	2,341	3 76	1	$3,000	$3,000 00	.....	.....	.....
	Johnson	450	2,331	5 18	.....	.....	.....	.....	.....	.....
	Massac	306	1,719	5 62	.....	.....	.....	.....	.....	.....
	Pope	323	1,775	5 50	1	30	30 00	.....	.....	.....
	Pulaski	188	965	5 13	.....	.....	.....	.....	.....	.....
	Union	686	3,576	5 21	.....	.....	.....	.....	.....	.....
	Saline	715	3,057	4 28	2	180	90 00	1	$698	$698 00
	Williamson	840	4,329	5 15	2	8	4 00	.....	.....	.....
	Total	4,295	$20,993	.....	6	$3,218	.....	1	$698	.....
	Grand agg.	80,001	$339,298	$4 24	67	$31,781	$478 34	64	$46,114	$720 53

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Statement—Continued.

Districts	Counties.	Patent Rights.			Steamboats, Sailing Vessels, Etc.			Total value of enumerated property.	Merchandise.
		No.	Value.	Av.	No.	Value.	Av.		
1									
2									
3	Cook				128	$61,249	$478 51	$1,404,600	$10,796,646
4	Lake				100	1,897	18 97	400,343	124,410
5									
6	Total				228	$63,146		$1,804,943	$10,921,056
7									
8	DeKalb							617,604	151,169
	DuPage	1	$10	$10 00				321,953	67,432
	Grundy				2	530	265 00	256,753	91,668
	Kane	1	3,311	3,311 00	1	4	4 00	658,138	345,407
	Kendall							233,247	28,300
	McHenry	1	10	10 00	1	874	874 00	706,513	157,199
	Total	3	$3,331		4	$1,408		$2,794,308	$841,175
9	Boone	1	200	200 00				277,588	55,911
	Carroll				1	232	232 00	354,688	68,033
	JoDaviess				19	480	25 26	444,520	113,372
	Lee	1	40	40 00	1	254	254 00	523,372	160,013
	Ogle				2	30	15 00	600,455	125,253
	Stephenson							479,252	169,683
	Winnebago	1	150	150 00	1	1,625	1,625 00	406,699	226,205
	Total	3	$390		24	$2,621		$3,086,574	$918,470
10	Henry	1	200	200 00	4	60	15 00	685,630	201,037
	Knox	1	210	210 00				554,797	206,441
	Mercer				1	295	295 00	496,041	90,606
	Rock Island	1	20	20 00	16	5,946	371 62	388,694	283,877
	Stark							241,910	55,544
	Whiteside	1	30	30 00	1	474	474 00	526,188	177,317
	Total	4	$460		22	$6,775		$2,893,260	$1,014,822
11	Bureau				1	185	185 00	747,556	170,764
	LaSalle	3	69	23 00	5	1,173	234 60	890,583	548,924
	Livingston	1	214	214 00				672,748	157,485
	Woodford	3	65	21 67	1	3	3 00	374,121	82,583
	Total	7	$348		7	$1,361		$2,684,958	$959,756
12	Iroquois	3	6	2 00	1	9	9 00	621,427	150,540
	Kankakee	1	10	10 00	1	443	443 00	338,428	133,027
	Vermilion				1	2	2 00	685,636	284,320
	Will				5	712	142 40	683,713	303,058
	Total	4	$16		8	$1,166		$2,339,204	$870,945
13	Champaign							721,938	227,313
	DeWitt							264,018	75,548
	Douglas				1	936	936 00	266,140	75,000
	Ford							347,632	98,335
	McLean				1	2	2 00	910,442	326,199
	Piatt							319,662	69,868
	Total				2	$938		$2,829,832	$876,264
14	Fulton				1	278	278 00	638,977	178,794
	Marshall							258,350	79,185
	Mason				1	578	578 00	200,919	62,348
	Peoria	1	74	$74 00	1	1,207	1,207 00	613,447	593,767
	Putnam				5	231	46 20	91,240	8,262
	Tazewell	1	130	130 00	1	468	468 00	365,782	130,617
	Total	2	$204		9	$2,762		$2,168,715	$1,052,973

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Statement—Continued.

District.	Counties.	Patent Rights.			Steamboats, Sailing Vessels, Etc.			Total value of enumerated property.	Merchandise.
		No.	Value.	Av.	No.	Value.	Av.		
15	Adams	7	$130	$18 57	26	$2,147	$82 57	$548,252	$351,952
	Brown	1	20	20 00	4	42	10 50	149,824	35,709
	Hancock	1	710	710 00	1	590	590 00	513,547	117,099
	Henderson				1	279	279 00	262,677	76,192
	McDonough	1	36	36 00				494,819	119,445
	Schuyler				1	232	232 00	239,170	31,567
	Warren	5	40	8 00	1	25	25 00	450,351	69,499
	Total	15	$936		34	$3,315		$2,658,640	$752,477
16	Calhoun				2	1,302	651 00	80,661	22,762
	Cass				1	710	710 00	254,655	81,921
	Greene				1	238	238 00	273,645	70,126
	Jersey				9	1,425	158 33	146,717	39,118
	Macoupin							478,970	120,285
	Morgan	1	110	110 00	1	201	201 00	481,873	159,992
	Pike				1	57	57 00	381,188	94,604
	Scott				1	292	292 00	111,428	26,645
	Total	1	$110		16	$4,225		$2,209,137	$615,453
17	Christian	1	13	13 00				485,222	113,894
	Logan							391,742	98,929
	Macon	1	111	111 00				492,036	269,897
	Menard				2	40	20 00	228,862	49,531
	Sangamon	2	31	15 50				770,560	360,364
	Total	4	$155		2	$40		$2,368,422	$892,615
18	Bond							146,217	44,637
	Fayette	1	5	5 00				278,737	55,494
	Madison	1	12	12 00	10	13,539	1,353 90	406,370	232,374
	Montgomery							368,929	94,317
	Moultrie							215,828	50,107
	Shelby							464,212	88,069
	Total	2	$17		12	$13,539		$1,879,293	$565,598
19	Clark				1	14	14 00	224,217	60,696
	Coles							346,918	115,172
	Crawford							203,544	54,089
	Cumberland							166,941	28,366
	Edgar	1	1	1 00				452,450	88,088
	Effingham	1	24	24 00				201,006	67,522
	Jasper							204,205	78,951
	Lawrence	1	1	1 00	2	46	23 00	143,107	33,947
	Richland							199,790	55,474
	Total	3	$26		3	$60		$2,142,178	$537,405
20	Clay				1	2	2 00	698,242	46,485
	Edwards							121,205	24,736
	Franklin							163,341	33,084
	Gallatin				3	1,226	408 66	101,445	35,893
	Hamilton							171,016	31,939
	Hardin				1	231	231 00	49,755	10,191
	Jefferson							234,185	68,925
	Wabash	2	3	1 50	5	706	141 20	98,081	34,189
	Wayne							251,898	44,518
	White				1	653	653 00	170,780	56,729
	Total	2	$3		11	$2,818		$1,559,952	$396,889
21	Clinton				1	3	3 00	253,970	41,685
	Marion	1	5	5 00				209,601	85,275
	Monroe							129,062	32,800
	Perry	1	5	5 00				127,097	38,301
	Randolph	2	16	8 00	14	1,042	74 43	206,414	82,649
	St. Clair	1	2	2 00	5	47,232	9,446 40	428,669	334,058
	Washington							169,870	46,309
	Total	5	$28		20	$48,277		$1,424,683	$661,077

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Statement—Continued.

Districts.	Counties.	Patent Rights.			Steamboats, Sailing Vessels, Etc.			Total value of enumerated property.	Merchandise.
		No.	Value.	Av.	No.	Value.	Av.		
22	Alexander				40	$14,772	$369 30	$73,194	$118,031
	Jackson	1	$200	$200 00	1	105	105 00	183,409	78,942
	Johnson							113,584	25,645
	Massac	1	10	10 00	3	1,461	487 00	87,630	34,241
	Pope	1	10	10 00	1	490	490 00	112,249	25,510
	Pulaski				1	90	90 00	67,247	28,296
	Union	5	133	26 60	2	21	10 50	149,224	58,706
	Saline							160,230	39,758
	Williamson				1	625	625 00	202,507	63,614
	Total	8	$353		49	$17,555		$1,149,274	$472,742
	Grand agg.	63	$6,377	$101 22	449	$170,006	$378 63	$35,993,373	$22,319,717

Statement—Continued.

Districts.	Counties.	Material and manufactured articles.	Man'f'ers' tools, implements and machinery.	Agricult'l tools, implements and machinery.	Gold and silver plate and plated ware.	Diamonds and jewelry.	Moneys of banker, broker, etc.	Credits of bank, banker, broker, etc.
1								
2								
3	Cook	$960,958	$1,224,073	$155,037	$60,683	$110,852	$122,985	$182,120
4	Lake	5,637	27,440	25,935	3,897	3,266	29,617	32,772
5								
6	Total	$966,595	$1,251,513	$180,972	$64,580	$114,118	$152,602	$214,892
7								
8	DeKalb	32,355	19,260	49,283	1,108	1,415	53,199	9,664
	DuPage	2,628	6,329	25,356	2,168	3,175	15,157	11,558
	Grundy	4,331	8,349	21,986	75	766	31,917	5,411
	Kane	250,932	289,004	36,681	2,848	7,423	14,908	16,742
	Kendall	1,370	3,808	20,520	.....	20	7,310	2,775
	McHenry	15,372	11,221	57,506	440	1,634	50,370	16,442
	Total	$306,988	$337,971	$211,332	$6,639	$14,433	$172,861	$62,592
9	Boone	24,332	5,809	47,668	915	1,093	12,004	2,040
	Carroll	385	4,391	18,349	63	105	57,470	20,163
	JoDaviess	21,217	7,425	21,476	549	391	75,421	32,056
	Lee	4,788	15,338	33,265	1,451	2,511	31,876	20,067
	Ogle	3,503	8,654	39,179	194	625	61,591	35,436
	Stephenson	23,961	22,781	36,471	462	690	30,824	40,638
	Winnebago	174,247	134,698	29,370	1,060	3,005	99,256	149,082
	Total	$252,433	$199,696	$225,778	$4,694	$8,420	$368,442	$299,482
10	Henry	14,922	5,681	45,336	81	160	48,742	46,570
	Knox	16,777	15,584	26,258	923	2,181	121,377	35,300
	Mercer	1,488	4 733	16,861	166	65	66,354	19,378
	Rock Island	185,574	81,613	15,392	1,251	1,529	55,178	9,497
	Stark	9	627	14,444	10	30	63,443	23,373
	Whiteside	36,839	16,506	27,823	447	779	38,296	21,804
	Total	$255,609	$124,744	$146,114	$2,878	$4,744	$393,390	$156,522
11	Bureau	3,891	4,159	43,149	578	800	96,028	9,571
	LaSalle	110,608	43,986	78,131	1,022	1,580	67,059	46,035
	Livingston	7,412	10,795	62,107	155	492	39,092	63,091
	Woodford	3,342	4,885	34,330	64	193	26,305	26,605
	Total	$125,253	$63,825	$217,717	$1,819	$3,065	$228,484	$145,302
12	Iroquois	10,296	8,261	59,866	137	681	68,274	55,735
	Kankakee	30,747	10,593	27,358	758	1,391	11,279	23,371
	Vermilion	10,412	22,582	33,658	291	2,435	76,532	26,939
	Will	64,514	230,224	41,691	1,500	3,649	27,533	5,281
	Total	$115,971	$271,660	$161,973	$2,686	$8,156	$183,618	$111,326
13	Champaign	7,779	28,335	51,177	1,651	3,005	53,035	12,950
	DeWitt	430	6,085	17,732	56	328	62,996	12,590
	Douglas	1,376	3,456	23,002	127	566	52,692	15,198
	Ford	4,244	6,546	34,873	310	940	26,570	9,440
	McLean	10,107	22,968	52,199	2,540	5,316	402,240	250,611
	Piatt	2,319	6,275	27,403	124	89	79,097	31,849
	Total	$26,255	$74,265	$206,386	$4,908	$10,244	$676,630	$332,638
14	Fulton	26,307	12,379	28,319	348	789	159,152	16,526
	Marshall	3,138	1,498	17,480	57	809	39,093	29,832
	Mason	2,521	4,550	14,873	165	193	25,773	16,413
	Peoria	95,369	207,818	33,848	1,965	8,607	115,250	269,974
	Putnam	697	124	5,166	.....	210	90	.....
	Tazewell	26,254	7,588	30,878	799	1,980	117,272	16,214
	Total	$154,286	$233,957	$130,564	$3,334	$12,588	$456,630	$339,959

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Statement—Continued.

District.	Counties.	Material and manufactured articles.	Man'f'ers' tools, implements and machinery.	Agricult'l tools, implements and machinery.	Gold and silver plate and plated ware.	Diamonds and jewelry.	Moneys of bankers, brokers, etc.	Credits of bank, banker, broker, etc.
15	Adams	$94,549	$66,702	$30,408	$2,528	$3,504	$46,924	$73,754
	Brown	454	529	6,436	20	312	19,308	1,852
	Hancock	964	3,160	23,197	281	413	134,884	14,037
	Henderson	473	1,316	11,492	101	42	20,746	12,043
	McDonough	3,839	4,612	26,671	180	563	67,244	54,197
	Schuyler	372	657	11,434	58	41	16,805	7,246
	Warren	10,886	2,709	18,759	164	714	.....	.....
	Total	$111,537	$79,685	$128,397	$3,332	$5,589	$305,911	$163,129
16	Calhoun	2,390	1,886	8,626	14	52	9,734	692
	Cass	1,879	7,770	15,331	196	914	36,810	15,690
	Greene	1,226	1,755	12,528	66	246	41,315	17,332
	Jersey	904	1,448	9,750	180	202	24,672	10,930
	Macoupin	1,733	8,559	22,727	216	487	43,458	11,899
	Morgan	4,821	12,122	18,949	1,571	4,529	126,300	9,296
	Pike	364	1,489	15,985	168	392	59,205	25,356
	Scott	.....	83	6,517	24	18	1,400	8,800
	Total	$13,317	$35,112	$110,413	$2,435	$6,840	$342,894	$100,085
17	Christian	6,801	6,436	26,144	295	564	59,512	106,675
	Logan	6,888	5,381	30,213	231	507	53,003	11,084
	Macon	18,133	26,542	34,514	1,510	4,336	44,058	10,945
	Menard	122	1,394	9,320	108	287	15,962	987
	Sangamon	38,256	26,144	33,747	3,024	5,470	12,648	6,403
	Total	$70,200	$65,897	$133,938	$5,168	$11,164	$185,183	$136,094
18	Bond	3,618	4,591	7,814	42	200	21,104	7,946
	Fayette	2,935	5,573	17,836	161	443	37,591	4,619
	Madison	101,232	83,347	37,586	2,469	3,374	41,208	8,040
	Montgomery	2,853	6,785	21,430	67	318	53,266	16,741
	Moultrie	364	2,121	13,082	1	126	9,530	5,449
	Shelby	3,410	9,582	30,417	351	664	17,469	16,320
	Total	$114,412	$111,999	$128,165	$3,031	$5,125	$180,168	$59,085
19	Clark	554	3,248	11,662	29	20	27,458	10,992
	Coles	12,572	14,648	19,719	206	488	55,644	14,799
	Crawford	298	3,540	15,478	97	32	9,990	6,090
	Cumberland	338	2,208	9,429	16	30	4,861	10,319
	Edgar	3,482	3,362	23,201	100	403	33,824	19,609
	Effingham	3,466	5,195	17,568	91	47	40,969	4,602
	Jasper	961	3,031	13,557	44	87	10,846	3,834
	Lawrence	1,336	2,978	10,876	65	54	1,156	191
	Richland	1,771	4,772	12,522	178	323	31,496	7,314
	Total	$24,778	$42,982	$134,012	$826	$1,484	$216,243	$77,660
20	Clay	1,583	2,494	12,722	135	122	26,546	9,364
	Edwards	991	1,689	9,118	126	113	5,697	3,560
	Franklin	4,527	2,351	9,886	23	28	919	3,735
	Gallatin	1,994	3,742	9,251	54	263	10,114	5,120
	Hamilton	109	1,606	8,886	78	163	7,534	760
	Hardin	1,237	2,679	4,983	25	.....	1,446	218
	Jefferson	713	5,220	11,362	28	199	20,669	11,013
	Wabash	1,434	2,046	9,754	5	53	16,250	2,266
	Wayne	642	1,440	13,127	27	33	14,646	7,291
	White	1,111	3,065	13,159	43	196	17,804	9,279
	Total	$14,341	$26,332	$102,248	$544	$1,170	$130,625	$52,606
21	Clinton	2,793	3,067	12,866	101	165	11,374	4,388
	Marion	1,788	2,117	12,206	300	354	53,078	12,424
	Monroe	3,211	3,828	21,304	44	168	5,292	.....
	Perry	835	3,493	13,574	41	39	5,261	615
	Randolph	11,458	12,296	24,197	397	327	8,100	1,215
	St. Clair	68,822	57,709	31,268	1,141	1,775	127,603	47,902
	Washington	5,581	3,038	14,804	70	75	27,307	5,243
	Total	$94,488	$86,548	$130,219	$2,094	$2,903	$228,015	$71,687

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Statement—Continued.

Districts.	Counties.	Material and manufactured articles.	Man'f'ers' tools, implements and machinery.	Agricult'l tools, implements and machinery.	Gold and silver plate and plated ware.	Diamonds and jewelry.	Moneys of banker, broker, etc.	Credits of bank, banker, etc.
22	Alexander	$2,687	$3,365	$5,393	$552	$1,199	$12,156	$3,249
	Jackson	3,897	7,699	14,235	175	140	12,772	30,468
	Johnson	3,133	4,101	8,970	24	65	2,963	2,090
	Massac	3,703	6,786	10,979	21	66	33,013	2,469
	Pope	305	3,550	9,020	84	79	21,175	12,248
	Pulaski	6,820	7,858	6,170	45	.....	.....	.....
	Union	5,431	5,388	17,739	192	100	20,367	14,132
	Saline	5,199	4,375	11,833	19	27	6,387	12,521
	Williamson	4,063	9,776	15,580	119	253	29,802	2,269
	Total	$35,238	$52,898	$99,825	$1,231	$1,939	$138,635	$79,446
	Grand agg.	$2,681,701	$3,058,084	$2,448,053	$10,159	$211,982	$4,370,331	$2,412,505

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Statement—Continued.

DISTRICTS.	COUNTIES.	Moneys of other than banker, etc.	Credits of other than banker, etc.	Bonds and stocks.	Shares of capital stock of companies not of this State.	Pawnbrokers' property.	Property of corporations not before enumerated.	Bridge property.
1								
2								
3	Cook	$2,041,967	$4,363,420	$1,112,598	$904,864	$17,017	$1,054,600	$925
4	Lake	398,779	215,747	72,500	50,893	.....	12,424	.....
5								
6								
7	Total	$2,440,746	$4,579,167	$1,185,098	$955,757	$17,017	$1,067,024	$925
8	DeKalb	152,474	469,270	1,900	9,580	.....	6,169	.....
	DuPage	394,002	181,394	42,011	8,898	.....	76	.....
	Grundy	107,433	159,268	11,214	1,386	.....	900	.....
	Kane	536,658	864,006	44,055	6,962	90	34,175	.....
	Kendall	143,919	53,454	300	326	.....	950	.....
	McHenry	209,988	496,045	13,466	2,750	.....	10,930	.....
	Total	$1,544,474	$2,223,437	$112,946	$29,896	$90	$53,200	.....
9	Boone	289,459	137,213	9,875	1,021	.....	1,828	.....
	Carroll	288,673	65,510	40	.....	.....	13,201	.....
	JoDaviess	679,110	205,812	14,774	6,650	.....	6,750	.....
	Lee	254,895	432,299	31,762	40,120	.....	90	.....
	Ogle	136,665	518,301	4,401	570	.....	525	.....
	Stephenson	418,803	181,052	1,880	755	.....	66,978	$200
	Winnebago	226,545	775,528	71,268	2,976	100	18,433	.....
	Total	$2,294,150	$2,315,715	$134,000	$52,092	$100	$107,805	$200
10	Henry	228,865	403,281	14,164	518	.....	.....	.....
	Knox	170,819	551,486	25,828	2,255	.....	646	.....
	Mercer	152,750	229,098	4,822	700	.....	4,943	.....
	Rock Island	280,814	178,767	20,315	6,582	40	1,440	.....
	Stark	30,754	74,916	60	.....	.....	.....	.....
	Whiteside	100,836	512,384	5,446	117	.....	3,800	.....
	Total	$971,828	$1,949,932	$70,635	$10,178	$40	$10,829	.....
11	Bureau	350,785	287,235	4,080	889	.....	2,100	.....
	LaSalle	285,348	774,177	9,845	2,824	.....	32,898	.....
	Livingston	278,428	243,629	14,055	484	.....	870	.....
	Woodford	165,256	153,761	942	1,603	.....	4,851	$10
	Total	$1,079,817	$1,458,802	$28,922	$5,810	.....	$40,719	$10
12	Iroquois	168,932	304,746	20,342	4,053	.....	4,581	.....
	Kankakee	193,781	318,885	66,670	100	.....	4,358	.....
	Vermilion	183,903	351,695	47,687	5,830	.....	18,975	.....
	Will	321,612	409,099	27,914	26,649	$130	22,787	30
	Total	$868,228	$1,384,425	$162,613	$36,632	$130	$50,701	$30
13	Champaign	217,248	387,591	23,375	1,904	.....	17,372	.....
	DeWitt	61,025	119,128	1,380	.....	.....	7,669	.....
	Douglas	10,813	122,641	15,594	542	.....	100	.....
	Ford	85,860	141,087	24,826	823	.....	11,108	.....
	McLean	284,722	668,781	12,266	9,711	10	1,707	.....
	Piatt	53,871	46,219	9,000	470	.....	4,140	15
	Total	$713,539	$1,485,447	$86,441	$13,450	$10	$42,096	$15
14	Fulton	269,586	244,289	6,459	.....	.....	.....	4,000
	Marshall	118,646	123,650	2,000	2,660	.....	622	.....
	Mason	90,805	22,957	8,889	731	.....	2,950	.....
	Peoria	402,170	397,238	31,205	1,658	11	34,009	90
	Putnam	22,139	19,240	300	5,009	.....	.....	.....
	Tazewell	250,963	188,257	1,749	254	.....	29,348	.....
	Total	$1,163,309	$995,631	$50,602	$10,312	$11	$66,929	$4,090

Statement—Continued.

District.	Counties.	Moneys of other than banker, etc.	Credits of other than banker, etc.	Bonds and stocks.	Shares of capital stock of companies not of this State.	Pawnbrokers' property.	Property of corporations not before enumerated.	Bridge property.
15	Adams	$337,699	$636,318	$296,802	$20,618	.....	$128,782	$70
	Brown	22,836	89,684	.....	349	.....	553	.....
	Hancock	119,413	321,261	34,449	461	.....	3,437	460
	Henderson	51,621	111,664	1,677	35	.....	.....	5
	McDonough	71,281	353,085	14,173	1,874	.....	3,426	.....
	Schuyler	56,910	78,916	12,002	1,189	.....	693	4
	Warren	.....	487,962	.....	41,046	.....	109,417	15
	Total	$659,760	$2,081,890	$359,103	$65,572	.....	$246,308	$504
16	Calhoun	4,934	52,132	293	4	.....	150	.....
	Cass	196,253	165,579	27,740	1,491	.....	3,883	.....
	Greene	191,481	90,043	3,722	1,905	.....	156	.....
	Jersey	31,900	104,947	2,468	159	.....	193	.....
	Macoupin	127,214	183,354	9,181	20	$17,940	3,300	.....
	Morgan	208,598	679,144	18,741	4,747	.....	1,456	.....
	Pike	80,560	251,275	41,080	160	.....	2,828	34
	Scott	144,027	1,000	.....	.....	.....	.....	.....
	Total	$984,967	$1,527,474	$103,225	$8,486	$17,940	$11,966	$34
17	Christian	111,261	235,554	21,634	1,213	.....	2,844	.....
	Logan	115,539	95,976	6,119	4,720	.....	7,650	12
	Macon	181,944	315,250	30,669	3,499	60	738	.....
	Menard	71,535	168,968	2,569	22,000	.....	.....	.....
	Sangamon	271,619	838,406	56,124	7,034	273	2,775	.....
	Total	$751,898	$1,654,143	$116,115	$38,466	$333	$14,007	$12
18	Bond	43,943	69,116	6,241	99	.....	30	.....
	Fayette	83,602	200,890	6,855	2,144	.....	6,647	5
	Madison	625,453	414,416	53,231	3,186	.....	75,656	4[illegible]
	Montgomery	92,543	137,077	29,237	656	.....	21,050	.....
	Moultrie	58,300	114,453	2,290	212	.....	807	.....
	Shelby	69,944	183,996	30,185	285	.....	3,075	4
	Total	$873,785	$1,119,948	$128,039	$6,582	.....	$107,265	$40,389
19	Clark	33,241	39,586	5,131	1,114	.....	118	.....
	Coles	36,463	69,724	8,130	80,401	$80	7,049	3,494
	Crawford	28,244	93,025	9,164	1,078	.....	1,812	.....
	Cumberland	19,319	25,802	200	6,800	.....	3,364	.....
	Edgar	107,243	242,355	19,642	3,170	.....	10,367	.....
	Effingham	63,679	41,078	10,172	359	.....	11,912	6
	Jasper	34,935	26,218	3,671	586	.....	630	.....
	Lawrence	40,645	48,003	6,779	54	.....	1	.....
	Richland	33,539	61,064	14,815	1,345	.....	1,056	.....
	Total	$397,308	$646,855	$77,704	$94,907	$80	$36,369	$3,500
20	Clay	45,568	23,072	1,307	566	.....	8,530	.....
	Edwards	46,557	88,875	3,303	.....	.....	521	.....
	Franklin	11,702	16,786	72	.....	.....	1,190	.....
	Gallatin	16,545	11,643	2,002	998	.....	260	.....
	Hamilton	27,660	25,454	1,992	.....	.....	.....	.....
	Hardin	6,134	4,728	.....	.....	.....	291	.....
	Jefferson	13,026	27,541	10,646	105	.....	.....	.....
	Wabash	35,454	37,977	5,292	14,268	.....	1,459	.....
	Wayne	19,562	33,309	27	611	3,313	100	4
	White	43,664	96,576	328	17	.....	.....	.....
	Total	$265,872	$396,251	$24,969	$16,005	$3,313	$12,351	$4
21	Clinton	59,077	98,567	5,394	10	.....	2,711	.....
	Marion	38,696	47,168	18,922	3,272	.....	3,260	.....
	Monroe	165,264	2,736	207	.....	.....	600	.....
	Perry	10,238	52,036	5,273	.....	.....	518	.....
	Randolph	237,100	1,123	9,363	268	.....	10,335	62
	St. Clair	619,581	121,149	82,323	1,291	140	.....	.....
	Washington	76,915	10,941	2,942	10,143	.....	.....	.....
	Total	$1,206,871	$833,180	$124,424	$14,974	$140	$17,224	$62

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Statement—Continued.

DISTRICTS.	COUNTIES.	Moneys of other than banker, etc.	Credits of other than banker, etc.	Bonds and stocks.	Shares of capital stock of companies not of this State.	Pawnbrokers' property.	Property of corporations not before enumerated.	Bridge property.
22	Alexander	$8,940	$6,979	$2,733	$1,618	$20	$942	.....
	Jackson	21,992	8,836	1,908	300	.....	724	$50
	Johnson	11,067	10,782	4,583	10,000	.....	1,700	.....
	Massac	10,489	30,761	600	706	808	.....	.....
	Pope	27,370	10,220	293	120	35	1,350	.....
	Pulaski	8,895	.....	.....	2,000	.....	.....	.....
	Union	48,852	24,230	16,628	2,420	.....	3,693	8,600
	Saline	33,068	23,596	270	3	.....	707	7
	Williamson	11,610	32,944	117	902	3	5,303	300
	Total	$182,193	$148,348	$28,132	$17,469	$866	$14,419	$9,457
	Grand agg.	$16,398,755	$24,271,645	$2,792,968	$1,376,588	$40,070	$1,899,212	$64,532

Statement—Continued.

DISTRICTS.	COUNTIES.	Property of saloons and eating houses.	Household and office furniture	Investments in real estate and improvements thereon.	Grain of all kinds.	Shares of stock of State and National banks.	All other property.
1	Cook	$24,278	$2,796,077	$59,527	$33,098	$48,091,779	$7,847,519
	Lake	2,186	98,681	2,950	13,229	50,805	213,826
	Total	$26,464	$2,894,758	$62,477	$46,327	$48,142,584	$8,061,345
8	DeKalb	1,790	118,984	5,847	74,627	.....	26,981
	DuPage	1,311	111,688	5,620	14,812	.....	50,859
	Grundy	1,956	46,183	2,145	129,305	40	154,095
	Kane	6,124	204,452	87	34,810	342,801	227,872
	Kendall	370	26,902	321	56,550	.....	11,052
	McHenry	2,167	121,756	5,430	20,106	.....	41,684
	Total	$13,718	$639,965	$19,450	$330,210	$342,841	$512,543
9	Boone	745	58,399	.....	28,825	58,850	29,720
	Carroll	842	46,028	645	17,575	.....	9,376
	JoDaviess	916	47,916	1,662	23,008	.....	15,962
	Lee	2,816	103,765	2,842	125,770	.....	26,326
	Ogle	640	87,266	1,135	140,286	54,400	28,983
	Stephenson	2,215	107,016	1,541	21,984	.....	23,490
	Winnebago	4,150	123,972	9,157	26,745	.....	50,245
	Total	$12,324	$574,362	$16,980	$384,193	$113,250	$208,208
10	Henry	1,345	110,817	244	109,640	156,129	43,770
	Knox	2,045	151,511	2,145	107,494	102,930	40,557
	Mercer	265	49,531	1,050	98,107	.....	26,192
	Rock Island	5,216	150,289	14,305	34,210	197,500	58,353
	Stark	170	30,255	2,866	67,761	.....	9,027
	Whiteside	2,540	93,957	1,586	78,479	73,250	35,518
	Total	$11,581	$586,360	$22,185	$495,690	$530,309	$213,417
11	Bureau	2,398	87,498	22,391	225,612	122,647	32,119
	LaSalle	8,458	194,404	19,561	349,726	242,309	110,864
	Livingston	3,694	113,730	8,765	417,299	.....	67,545
	Woodford	2,239	52,968	660	163,665	.....	35,199
	Total	$16,719	$448,600	$51,367	$1,156,302	$364,937	$245,727
12	Iroquois	1,598	93,471	16,250	244,958	21,500	49,246
	Kankakee	2,678	69,734	4,675	87,862	.....	60,438
	Vermilion	8,372	121,567	6,629	247,039	140,251	185,778
	Will	6,368	169,968	50,356	125,689	163,822	158,532
	Total	$18,716	$454,740	$77,910	$705,548	$325,573	$457,994
13	Champaign	3,477	158,115	4,234	467,447	72,453	51,495
	DeWitt	2,300	39,602	333	113,961	50,200	7,516
	Douglas	475	52,100	1,494	119,207	33,000	45,255
	Ford	477	59,604	2,305	173,383	.....	31,138
	McLean	2,092	191,359	27,458	400,464	.....	52,397
	Piatt	730	37,620	1,605	172,721	51,000	15,304
	Total	$9,551	$538,400	$38,329	$1,447,178	$207,653	$203,152
14	Fulton	1,682	96,471	.....	51,552	59,071	41,749
	Marshall	2,518	40,826	16,327	85,199	.....	11,297
	Mason	2,146	36,118	2,140	59,527	.....	26,952
	Peoria	7,877	191,427	6,996	93,940	80	247,884
	Putnam	.....	.....	.....	24,434	.....	2,971
	Tazewell	2,198	91,429	3,800	121,017	.....	22,693
	Total	$15,921	$456,271	$29,153	$435,669	$59,151	$313,535

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Statement—Continued.

DISTRICTS.	COUNTIES	Property of saloons and eating houses.	Household and office furniture.	Investments in real estate and improvements thereon.	Grain of all kinds.	Shares of stock of State and National banks.	All other property.
15	Adams	$5,578	$195,957	$3,960	$41,659	.....	$51,547
	Brown	735	20,637	22	18,517	.....	3,311
	Hancock	924	69,770	805	71,986	.....	13,815
	Henderson	114	23,595	774	54,277	122,037	3,476
	McDonough	575	69,736	1,808	105,848	11,966	37,346
	Schuyler	135	22,594	962	.....	23,466	4,927
	Warren	235	58,243	1,810	111,847	.....	11,755
	Total	$8,296	$460,532	$10,141	$404,134	$157,472	$126,177
16	Calhoun	429	19,302	.....	13,736	.....	5,887
	Cass	873	47,075	520	63,219	38,180	12,752
	Greene	41	43,324	1,934	21,319	.....	2,007
	Jersey	198	29,058	.....	19,408	.....	6,821
	Macoupin	2,511	75,166	3,335	68,882	.....	32,719
	Morgan	1,319	103,546	8,665	123,348	15,790	20,496
	Pike	161	51,889	1,695	23,719	.....	8,987
	Scott	.....	12,008	.....	26,877	.....	3,583
	Total	$5,532	$381,368	$16,149	$357,508	$53,970	$93,252
17	Christian	2,844	61,831	185	126,351	43,634	26,175
	Logan	1,975	66,415	4,623	210,090	66,100	28,682
	Macon	1,631	154,420	13,347	190,170	101,247	46,689
	Menard	745	27,112	568	69,043	.....	7,529
	Sangamon	8,666	212,902	2,961	210,697	460,760	129,447
	Total	$15,861	$522,680	$21,684	$806,351	$671,741	$238,519
18	Bond	184	20,151	2,810	2,990	.....	9,893
	Fayette	1,346	34,756	975	22,618	20,000	16,136
	Madison	7,716	111,197	107,594	20,479	.....	124,003
	Montgomery	1,116	51,451	2,270	36,639	58,193	28,493
	Moultrie	68	32,130	.....	112,544	26,300	21,475
	Shelby	802	66,676	560	100,770	.....	18,079
	Total	$11,232	$316,351	$114,209	$296,040	$104,493	$218,141
19	Clark	170	31,926	22	27,729	.....	20,456
	Coles	1,144	71,256	3,030	94,962	50,532	81,380
	Crawford	12	32,586	95	26,872	.....	3,034
	Cumberland	133	18,081	858	6,152	.....	9,121
	Edgar	2,132	44,470	3,728	169,330	80,199	31,150
	Effingham	544	39,324	44,433	26,264	.....	31,638
	Jasper	22	27,555	46	17,583	.....	4,852
	Lawrence	130	20,546	300	10,921	4,000	8,520
	Richland	261	29,039	1,167	13,021	.....	5,732
	Total	$4,548	$314,763	$53,679	$392,934	$134,731	$195,883
20	Clay	239	29,540	968	12,437	.....	5,565
	Edwards	.....	18,532	6	2,309	.....	3,250
	Franklin	285	25,843	380	5,628	7,500	268
	Gallatin	273	17,965	.....	3,669	13,522	.....
	Hamilton	75	17,494	148	11,726	.....	2,902
	Hardin	70	9,349	160	68	.....	318
	Jefferson	80	32,965	1,546	760	.....	5,544
	Wabash	80	28,695	125	13,075	.....	1,873
	Wayne	59	22,655	321	2,534	2,498	41
	White	326	25,340	280	14,147	.....	11,656
	Total	$1,487	$228,368	$3,934	$66,353	$23,320	$31,420
21	Clinton	746	26,442	1,027	5,040	.....	4,829
	Marion	1,461	38,321	617	14,192	30,665	7,059
	Monroe	534	26,433	.....	5,119	.....	3,493
	Perry	441	28,361	350	829	.....	6,626
	Randolph	1,638	45,397	1,090	14,616	11,327	10,877
	St. Clair	9,126	101,414	3,308	27,807	67,996	204,337
	Washington	458	25,680	1,161	3,965	.....	8,889
	Total	$14,404	$292,052	$7,553	$71,568	$109,988	$246,110

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Statement—Concluded.

District.	Counties.	Property of saloons and eating houses.	Household and office furniture.	Investments in real estate and improvements thereon.	Grain of all kinds.	Shares of stock of State and National banks.	All other property.
22	Alexander	$2,763	$55,059		$31,147	$61,000	$40,302
	Jackson	2,970	47,255	617	11,036	30,400	32,207
	Johnson	30	25,218	300	3,057		1,298
	Massac	632	33,340	1,433	2,329	2,242	620
	Pope	315	29,349	1,219	7,185		7,776
	Pulaski	905	29,257				13,304
	Union	290	44,748	1,548	3,311	18,500	2,058
	Saline	14	28,558	1,110	9,491	24,287	5,510
	Williamson	1,741	60,348	7,033	4,328		13,871
	Total	$9,660	$353,132	$13,260	$71,884	$136,429	$122,946
	Grand aggregate	$186,014	$9,462,792	$558,463	$7,457,789	$51,478,642	$11,488,369

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Statement—Continued.

DISTRICTS.	COUNTIES.	Total value of unenumerated property.	Total value of personal property.
1			
2	Cook	$81,961,023	$83,365,623
4	Lake	1,384,994	1,785,337
5	Total	$83,346,017	$85,150,960
6			
7			
8	DeKalb	1,185,075	1,802,679
	DuPage	944,474	1,266,427
	Grundy	778,422	1,035,175
	Kane	3,266,037	3,924,175
	Kendall	368,247	601,494
	McHenry	1,234,506	1,941,119
	Total	$7,776,761	$10,571,069
9	Boone	765,707	1,043,295
	Carroll	610,849	965,537
	JoDaviess	1,274,468	1,718,988
	Lee	1,300,594	1,823,066
	Ogle	1,245,607	1,846,062
	Stephenson	1,161,430	1,640,682
	Winnebago	2,132,142	2,538,841
	Total	$8,490,797	$11,577,371
10	Henry	1,431,302	2,116,932
	Knox	1,583,156	2,137,953
	Mercer	768,115	1,264,156
	Rock Island	1,587,742	1,976,436
	Stark	373,278	615,178
	Whiteside	1,228,224	1,754,412
	Total	$6,971,817	$9,865,077
11	Bureau	1,466,634	2,216,190
	LaSalle	2,927,750	3,818,283
	Livingston	1,489,108	2,161,856
	Woodford	759,461	1,133,582
	Total	$6,642,953	$9,327,911
12	Iroquois	1,283,169	1,914,596
	Kankakee	1,053,705	1,392,133
	Vermilion	1,772,895	2,458,531
	Will	2,159,806	2,843,519
	Total	$6,269,575	$8,608,779
13	Champaign	1,792,251	2,514,189
	DeWitt	579,059	843,097
	Douglas	576,639	842,779
	Ford	711,956	1,069,588
	McLean	2,723,137	3,633,579
	Piatt	609,779	929,441
	Total	$6,992,841	$9,822,673
14	Fulton	1,197,473	1,806,459
	Marshall	565,837	824,187
	Mason	380,961	589,970
	Peoria	2,700,572	3,314,019
	Putnam	88,642	179,892
	Tazewell	1,043,300	1,409,092
	Total	$5,964,875	$8,153,580

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Statement—Continued.

DISTRICT.	COUNTIES.	Total value of unenumerated property.	Total value of personal property.
15	Adams	$2,389,311	$2,937,563
	Brown	221,264	371,088
	Hancock	930,756	1,444,303
	Henderson	442,696	705,567
	McDonough	950,872	1,445,691
	Schuyler	269,998	509,168
	Warren	925,053	1,375,466
	Total	$6,129,946	$8,788,586
16	Calhoun	140,024	220,085
	Cass	718,076	972,731
	Greene	500,526	774,171
	Jersey	282,356	429,073
	Macoupin	732,986	1,211,956
	Morgan	1,523,429	2,005,302
	Pike	650,951	1,041,139
	Scott	231,072	342,500
	Total	$4,788,420	$6,996,557
17	Christian	953,847	1,439,069
	Logan	814,137	1,205,879
	Macon	1,449,596	1,941,632
	Menard	447,770	676,632
	Sangamon	2,686,719	3,457,279
	Total	$6,352,069	$8,720,491
18	Bond	245,409	391,625
	Fayette	520,678	799,415
	Madison	1,992,911	2,308,281
	Montgomery	645,102	1,014,031
	Moultrie	449,359	665,187
	Shelby	640,658	1,104,870
	Total	$4,494,117	$6,373,410
19	Clark	274,152	498,369
	Coles	740,893	1,087,811
	Crawford	285,426	488,970
	Cumberland	145,397	312,358
	Edgar	885,855	1,338,305
	Effingham	408,860	609,875
	Jasper	182,569	396,774
	Lawrence	190,502	553,609
	Richland	274,898	474,678
	Total	$3,388,551	$5,530,729
20	Clay	227,243	425,485
	Edwards	209,383	330,388
	Franklin	124,207	287,548
	Gallatin	133,298	234,743
	Hamilton	138,526	309,536
	Hardin	41,897	91,652
	Jefferson	199,332	433,517
	Wabash	204,295	302,376
	Wayne	166,701	418,599
	White	293,720	464,510
	Total	$1,738,602	$3,298,554
21	Clinton	277,971	431,941
	Marion	270,616	580,217
	Monroe	273,753	402,815
	Perry	160,913	294,010
	Randolph	473,750	680,170
	St. Clair	1,924,347	2,353,016
	Washington	243,525	413,395
	Total	$3,730,881	$5,155,564

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Statement—Continued.

District.	Counties.	Total value of unenumerated property.	Total value of personal property.
22	Alexander	$358,535	$431,729
	Jackson	306,523	489,932
	Johnson	115,026	228,610
	Massac	175,238	262,986
	Pope	157,209	269,458
	Pulaski	103,459	170,706
	Union	296,933	446,157
	Saline	206,750	366,990
	Williamson	270,476	472,963
	Total	$1,990,149	$3,139,423
	Grand aggregate	$165,088,371	$201,081,744

Statement—Continued.

Districts	Counties.	Real Estate—Lands. Improved Lands. Number of acres.	Value.	Av. value per acre.	Unimproved Lands. Number of acres.	Value.	Av. value per acre.	Total Lands. Number of acres.	Value.	Av. value per acre
1										
2										
3	Cook	218,900	$6,564,504	$29 99	228,129	$7,617,437	$33 39	447,029	$14,181,941	$31 72
4	Lake	229,691	2,570,466	11 20	48,040	384,092	8 00	277,731	2,954,552	10 64
5										
6	Total	448,591	$9,134,964		276,169	$8,001,529		724,760	$17,136,493	
7										
		393,811	4,640,468	11 78				393,811	4,640,468	11 78
8	DeKalb	159,410	2,610,037	16 37	42,801	435,718	10 18	202,211	3,045,755	15 06
	DuPage	266,349	3,027,800	11 36				266,349	3,027,800	11 36
	Grundy	163,122	2,395,842	14 61	153,870	1,377,746	8 95	316,992	3,773,588	11 90
	Kane	202,213	2,546,980	12 60				202,213	2,546,980	12 60
	Kendall	382,264	3,727,321	9 75				382,264	3,727,321	9 75
	McHenry									
	Total	1,567,169	$18,948,448		196,671	$1,813,464		1,763,840	$20,761,912	
		177,400	1,922,099	10 83				177,400	1,922,099	10 83
9	Boone	255,337	2,254,520	8 83	32,152	70,272	2 19	287,489	2,324,792	8 09
	Carroll	250,900	2,417,963	9 60	127,296	503,936	3 96	378,196	2,921,899	7 73
	Jo Daviess	460,644	5,156,128	11 19				460,644	5,156,128	11 19
	Lee	478,555	5,020,093	10 49				478,555	5,020,093	10 49
	Ogle	351,542	3,707,152	10 55	12,437	97,982	7 24	363,979	3,805,134	10 45
	Stephenson	313,292	3,814,145	12 17	6,645	33,788	5 08	319,937	3,847,933	12 28
	Winnebago									
	Total	2,287,670	$24,292,100		178,530	$705,978		2,466,200	$24,998,078	
		512,980	5,045,223	9 84				512,980	5,045,223	9 84
10	Henry	446,251	4,513,845	10 12				446,251	4,513,845	10 12
	Knox	325,599	2,980,369	9 15	20,817	45,989	2 21	346,416	3,026,358	8 73
	Mercer	174,942	1,811,802	10 36	98,511	504,456	5 70	263,453	2,316,258	8 79
	Rock Island	179,902	2,226,709	12 38				179,902	2,226,709	12 38
	Stark	377,704	3,903,362	10 33	54,567	259,169	4 75	432,271	4,162,531	9 62
	Whiteside									
	Total	2,017,378	$20,481,310		163,895	$809,614		2,181,273	$21,290,924	

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Statement—Continued.

DISTRICTS.	COUNTIES.	REAL ESTATE—LANDS.								
		IMPROVED LANDS.			UNIMPROVED LANDS.			TOTAL LANDS.		
		Number of acres.	Value.	Av. value per acre.	Number of acres.	Value.	Av. value per acre.	Number of acres.	Value.	Av. value per acre.
11	Bureau	542,866	$5,896,745	$10 81				542,866	$5,896,745	$10 81
	LaSalle	721,096	9,449,453	13 10				721,096	9,449,453	13 10
	Livingston	591,805	8,143,237	13 76	67,396	$671,267	$9 96	659,201	8,814,504	13 37
	Woodford	288,751	4,089,979	14 16	47,451	216,023	4 57	336,202	4,306,002	12 81
	Total	2,144,518	$27,579,414		114,847	$887,290		2,259,365	$28,466,704	
12	Iroquois	694,000	7,821,380	11 27	8,500	55,268	6 50	702,500	7,876,648	11 21
	Kankakee	418,178	3,013,927	7 21				418,178	3,013,927	7 21
	Vermilion	557,407	7,002,811	12 56	3,996	28,651	7 17	561,403	7,031,462	12 52
	Will	520,133	6,515,000	12 53				520,133	6,515,000	12 53
	Total	2,189,718	$24,353,118		12,496	$83,919		2,202,214	$24,437,037	
13	Champaign	623,501	8,843,137	14 18				623,501	8,843,137	14 18
	DeWitt	251,257	2,909,176	11 58				251,257	2,909,176	11 58
	Douglas	270,895	2,888,340	10 66				270,895	2,888,340	10 66
	Ford	304,665	3,823,069	12 55				304,665	3,823,069	12 55
	McLean	736,611	10,086,425	13 69				736,611	10,086,425	13 69
	Piatt	276,442	3,766,926	13 63	115	1,298	11 29	276,557	3,768,224	13 62
	Total	2,463,371	$32,317,073		115	$1,298		2,463,486	$32,318,371	
14	Fulton	375,583	3,770,495	10 04	172,021	499,863	2 91	547,604	4,270,358	7 80
	Marshall	193,276	2,459,840	12 73	53,951	232,657	4 31	247,227	2,692,497	10 89
	Mason	253,906	2,143,336	8 45	97,502	135,220	1 39	351,408	2,278,556	6 48
	Peoria	357,449	4,742,772	13 27	24,583	82,402	3 35	382,032	4,825,174	12 63
	Putnam	86,774	845,975	9 75	18,124	21,815	1 20	104,898	867,790	8 27
	Tazewell	339,017	3,905,183	11 52	69,724	260,368	3 73	408,741	4,165,551	10 19
	Total	1,606,005	$17,867,601		435,905	$1,232,325		2,041,910	$19,099,926	

1										
5 Adams	441,867	4,005,814	9 02	86,087	226,607	2 63	527,954	4,232,421	8 02
Brown	117,374	849,169	7 23	68,050	127,887	1 88	185,424	977,053	5 27
Hancock	422,881	3,960,707	9 37	63,909	280,691	4 39	486,590	4,241,398	8 71
Henderson	238,046	1,754,562	7 37				238,046	1,754,562	7 37
McDonough	336,873	3,782,852	11 25	24,372	96,573	3 97	361,245	3,879,606	10 74
Schuyler	275,070	1,643,295	5 97				275,070	1,643,295	5 97
Warren	338,535	3,765,945	11 12				338,535	3,765,945	11 12
Total	2,170,246	$19,762,342		242,418	$731,848		2,412,664	$20,494,190	
16 Calhoun	66,872	670,932	10 03	97,901	98,543	1 00	164,773	769,475	4 67
Cass	186,628	1,958,226	10 49	52,592	82,257	1 56	239,220	2,040,483	8 61
Greene	330,057	2,380,686	7 24	13,242	28,596	2 16	343,299	2,418,282	7 04
Jersey	150,346	1,225,279	8 15	81,677	124,925	1 53	232,023	1,350,204	5 82
Macoupin	432,779	3,414,337	7 89	107,489	296,829	2 76	540,268	3,711,166	6 87
Morgan	325,917	3,891,423	11 94	30,417	159,570	5 25	356,334	4,050,993	11 37
Pike	372,816	2,453,321	6 59	137,330	259,212	1 89	510,146	2,712,535	5 32
Scott	138,318	1,224,531	9 58	18,084	32,222	1 78	156,402	1,356,753	8 67
Total	2,003,733	$17,227,735		538,732	$1,082,154		2,542,465	$18,409,889	
17 Christian	417,700	4,351,343	10 42	30,062	192,576	6 41	447,762	4,543,919	10 15
Logan	347,837	4,131,656	11 87	32,053	199,247	6 22	379,990	4,330,903	11 40
Macon	362,913	4,782,127	13 18	2,650	38,496	14 53	365,563	4,820,623	13 19
Menard	190,154	2,172,964	11 43	7,775	47,365	6 09	197,929	2,220,329	11 22
Sangamon	544,277	6,574,364	12 45	2,291	11,312	4 94	546,568	6,785,676	12 42
Total	1,862,981	$22,242,454		74,831	$488,996		1,937,812	$22,701,450	
18 Bond	210,866	842,485	4 00	32,296	59,356	1 84	243,162	901,841	3 71
Fayette	328,484	1,463,174	4 41	122,522	242,169	1 98	451,006	1,705,343	3 78
Madison	367,090	4,392,250	11 97	77,046	337,393	4 38	444,136	4,729,623	10 65
Montgomery	388,634	2,897,475	7 44	52,013	167,775	3 23	440,647	3,065,248	6 96
Moultrie	215,628	2,276,222	10 56				215,628	2,276,223	10 56
Shelby	449,200	2,988,287	6 65	33,657	72,448	2 16	482,857	3,060,735	6 34
Total	1,959,872	$14,859,874		317,534	$879,139		2,277,406	$15,739,013	
15 Clark	220,305	1,161,261	5 27	95,521	212,002	2 22	315,886	1,373,263	4 35
Coles	309,164	3,376,457	10 92	10,441	33,129	3 17	319,605	3,409,582	10 67
Crawford	225,643	1,308,045	5 80	42,467	126,000	2 83	268,110	1,428,045	5 32
Cumberland	180,761	735,940	4 07	36,471	97,214	2 67	217,232	833,154	3 84
Edgar	393,118	3,828,980	10 54	27,525	188,650	6 85	390,642	4,017,610	10 54
Effingham	222,500	1,040,827	4 68	73,270	141,127	1 93	295,770	1,181,954	4 00
Jasper	253,942	1,166,655	4 59	56,599	125,803	2 22	310,541	1,292,458	4 16
Lawrence	185,432	1,024,309	5 52	42,739	114,161	2 66	228,171	1,138,470	4 98
Richland	186,973	738,534	4 20	36,353	93,114	2 56	223,326	891,648	3 99
Total	2,147,898	$14,440,984		421,366	$1,125,209		2,569,264	$15,566,184	

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Statement—Continued.

District.	Counties.	Real Estate—Lands.								
		Improved Lands.			Unimproved Lands.			Total Lands.		
		Number of acres.	Value.	Av. value per acre.	Number of acres.	Value.	Av. value per acre.	Number of acres.	Value.	Av. value per acre.
20	Clay	229,232	$965,344	$4 22	68,613	$131,845	$1 92	297,845	$1,097,189	$3 68
	Edwards	119,995	647,734	5 40	20,018	66,659	3 33	140,013	714,393	5 10
	Franklin	185,643	638,552	3 44	76,883	116,043	1 51	262,526	754,595	2 87
	Gallatin	130,260	711,219	5 46	68,845	95,605	1 39	199,105	806,824	4 05
	Hamilton	201,461	539,399	2 68	72,240	105,978	1 47	273,701	645,377	2 36
	Hardin	58,301	139,766	2 40	51,560	55,814	1 08	109,861	195,580	1 78
	Jefferson	256,371	1,212,532	4 73	99,256	255,116	2 57	355,627	1,467,648	4 13
	Wabash	111,938	754,424	6 74	25,576	96,460	3 77	137,574	850,884	6 18
	Wayne	311,339	952,036	3 05	134,750	213,744	1 59	446,089	1,165,780	2 61
	White	256,130	1,199,083	4 68	48,054	84,267	1 75	304,184	1,283,350	4 22
	Total	1,860,730	$7,760,089		665,795	$1,221,531		2,526,525	$8,981,620	
21	Clinton	228,256	1,328,463	5 82	85,509	108,659	1 27	313,765	1,437,122	4 58
	Marion	254,148	1,175,210	4 06	82,776	123,640	1 49	336,924	1,298,850	3 86
	Monroe	144,586	1,192,187	8 25	96,455	165,178	1 71	241,041	1,357,365	5 63
	Perry	170,170	982,081	5 77	101,768	201,536	1 98	271,938	1,183,617	4 35
	Randolph	235,497	1,441,783	6 12	121,120	206,987	1 71	356,617	1,648,770	4 62
	St Clair	316,310	5,511,471	17 42	95,243	640,691	6 73	411,553	6,152,162	14 96
	Washington	265,891	1,543,585	5 80	87,823	147,278	1 68	353,714	1,690,863	4 78
	Total	1,614,858	$13,174,780		670,694	$1,593,969		2,285,552	$14,768,749	
22	Alexander	46,646	391,984	8 40	77,000	77,000	1 00	123,646	468,984	3 79
	Jackson	174,877	908,806	5 20	162,867	221,166	1 36	337,744	1,129,972	3 35
	Johnson	108,738	354,323	3 26	102,581	101,210	99	211,319	455,533	2 10
	Massac	87,575	403,366	4 61	60,316	86,542	1 43	147,891	489,908	3 31
	Pope	133,767	354,053	2 65	103,145	107,707	1 04	236,912	461,760	1 95
	Pulaski	78,000	438,907	5 63	54,900	141,203	2 57	132,900	580,110	4 36
	Union	136,021	904,438	6 65	100,465	168,571	1 68	236,486	1,073,009	4 54
	Saline	162,257	690,112	4 25	77,412	211,710	2 73	239,669	901,822	3 76
	Williamson	97,554	952,428	4 82	77,802	159,831	2 05	275,356	1,112,259	4 04
	Total	1,1[illegible]435	$5,398,417		816,488	$1,274,940		1,941,923	$6,673,357	
	Grand aggregate	29,470,173	$280,910,703	$9 83	5,126,486	$21,933,194	$4 28	34,596,659	$311,843,897	$9 01

Statement—Continued.

Counties.	Real estate—town and city lots.									Total value of personal property, lands and lots.
	Improved town and city lots.			Unimproved town and city lots.			Total town and city lots.			
	Number of lots.	Value.	Av. val. per lot.	Number of lots.	Value.	Av. val. per lot.	Number of lots.	Value.	Av. val. per lot.	
7 Cook	227,352	$219,823,289	$966 89	504,364	$45,736,290	$90 68	731,716	$265,559,579	$362 93	$363,107,143
Lake	4,456	1,640,677	368 20	22,257	703,147	31 59	26,713	2,343,824	87 74	7,083,713
Total	231,808	$221,463,966	.....	526,621	$46,439,437	.....	758,429	$267,903,403	.....	$370,190,856
8 DeKalb	8,179	1,725,282	210 94	.....	.....	.....	8,179	1,725,282	210 94	8,168,429
DuPage	4,864	1,137,877	233 94	23,779	388,357	16 33	28,643	1,625,234	53 28	5,838,416
Grundy	7,427	676,852	91 13	.....	.....	.....	7,427	676,852	91 13	4,739,827
Kane	12,745	5,054,727	396 60	20,154	644,894	32 00	32,899	5,699,621	172 75	13,397,394
Kendall	2,792	232,815	83 39	.....	.....	.....	2,792	232,815	83 39	3,381,289
McHenry	7,193	1,068,477	148 54	.....	.....	.....	7,193	1,068,477	148 54	6,736,917
Total	43,200	$9,896,030	.....	43,933	$1,033,251	.....	87,133	$10,929,281	.....	$42,262,262
9 Boone	3,405	908,127	266 70	.....	.....	.....	3,405	908,127	266 70	3,873,521
Carroll	2,792	526,662	188 62	1,221	25,214	20 65	4,013	551,876	137 52	3,842,205
JoDaviess	4,717	499,719	105 94	3,691	34,129	9 25	8,408	533,848	63 49	5,174,735
Lee	8,286	1,412,350	170 45	.....	.....	.....	8,286	1,412,350	170 45	8,392,444
Ogle	5,197	837,447	91 06	.....	.....	.....	9,197	837,447	91 06	7,703,602
Stephenson	6,711	1,590,058	236 93	2,090	37,351	17 87	8,801	1,627,409	184 91	7,073,225
Winnebago	10,841	3,968,646	366 08	9,947	219,990	22 12	20,788	4,188,636	201 49	10,575,410
Total	45,949	$9,743,009	.....	16,949	$316,684	.....	62,898	$10,069,693	.....	$46,635,142
10 Henry	10,062	1,543,679	153 42	.....	.....	.....	10,062	1,543,679	153 42	8,705,834
Knox	14,379	2,690,221	187 21	613	20,050	32 74	14,983	2,710,271	180 86	9,362,069
Mercer	3,874	399,869	103 22	3,047	36,242	6 64	6,921	436,111	61 57	4,716,625
Rock Island	8,214	3,090,904	376 29	6,094	267,458	43 89	14,308	3,358,362	234 72	7,651,066
Stark	2,372	302,808	127 66	.....	.....	.....	2,372	302,808	127 66	3,144,705
Whiteside	5,137	1,545,206	300 80	2,190	44,707	20 41	7,327	1,589,913	216 99	7,506,856
Total	44,029	$9,572,687	.....	11,944	$358,457	.....	55,793	$9,931,144	.....	$41,087,145

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Statement—Continued.

Counties.	Real estate—town and city lots: Improved town and city lots. Number of lots.	Value.	Av. val. per lot.	Unimproved town and city lots. Number of lots.	Value.	Av. val. per lot.	Total town and city lots. Number of lots.	Value.	Av. val. per lot.	Total value of personal property, lands and lots.
11 Bureau	11,000	$1,062,286	$96 57	.....	.....	.....	11,000	$1,062,286	$96 57	$9,178,221
LaSalle	28,452	3,668,492	128 93	.....	.....	.....	28,452	3,668,492	128 93	16,936,228
Livingston	5,974	1,090,553	182 60	5,015	$82,580	$16 46	10,989	1,173,133	106 78	12,149,773
Woodford	5,771	522,831	90 60	1,433	11,534	8 05	7,204	534,365	74 17	5,973,949
Total	51,197	$6,344,462	.....	6,448	$94,094	.....	57,645	$6,438,556	.....	$44,233,171
12 Iroquois	7,800	819,000	105 00	3,250	54,422	16 74	11,050	873,422	79 04	10,664,666
Kankakee	6,110	927,238	151 76	5,018	228,593	45 55	11,128	1,155,831	103 87	5,561,891
Vermilion	10,074	2,322,279	230 52	6,252	126,995	20 31	16,326	2,449,274	150 02	11,830,267
Will	22,122	4,797,808	216 88	.....	.....	.....	22,122	4,797,808	216 88	14,156,327
Total	46,106	$8,866,325	.....	14,520	$410,010	.....	60,626	$9,276,335	.....	$42,213,151
13 Champaign	6,811	1,910,624	280 52	5,602	176,101	31 44	12,413	2,086,725	168 11	13,444,051
DeWitt	4,460	496,124	109 89	673	17,027	25 30	5,133	507,151	98 80	4,259,424
Douglas	4,339	561,819	129 48	.....	.....	.....	4,339	561,819	129 48	4,202,938
Ford	5,998	603,224	119 03	.....	.....	.....	5,998	603,224	119 03	5,485,881
McLean	11,440	3,893,252	340 32	5,486	194,478	35 45	16,926	4,087,730	241 51	17,807,734
Piatt	4,372	456,580	104 40	1,202	20,643	17 17	5,574	477,223	85 43	5,174,868
Total	36,490	$7,915,603	.....	12,963	$408,249	.....	49,453	$8,323,852	.....	$50,464,896
14 Fulton	8,462	1,146,348	135 47	1,985	27,166	13 69	10,447	1,173,514	112 33	7,280,322
Marshall	3,162	419,476	132 66	1,833	32,421	17 68	4,995	451,897	90 47	3,968,581
Mason	3,037	431,573	142 11	1,845	41,528	22 50	4,882	473,101	96 91	3,341,627
Peoria	10,807	6,990,045	647 36	13,808	1,143,778	82 30	24,705	8,139,823	329 48	16,279,016
Putnam	942	40,214	44 09	967	10,327	10 46	1,899	50,541	26 61	1,068,213
Tazewell	5,433	989,769	179 10	3,876	68,392	18 81	9,168	1,052,161	114 75	6,626,794
Total	31,873	$10,017,425	.....	24,224	$1,323,612	.....	56,097	$11,341,037	.....	$38,594,553

15 Adams	9,973	$3,801,156	$381 15	3,146	$169,550	$54 02	13,119	$5,971,106	$392 70	$11,141,099
Brown	1,187	138,433	121 75	444	6,684	15 05	1,581	145,117	91 79	1,403,258
Hancock	8,543	801,648	93 84	1,913	17,445	9 11	10,456	819,093	78 34	6,504,704
Henderson	5,655	156,865	27 74				5,655	156,865	27 74	2,610,791
McDonough	5,272	787,400	149 37	472	4,689	9 93	5,744	792,179	137 91	6,117,476
Schuyler	1,983	227,040	114 49				1,983	227,040	114 49	2,379,503
Warren	4,650	827,990	178 00				4,650	827,990	178 00	5,969,341
Total	37,218	$6,740,662		5,975	$198,768		43,189	$8,939,390		$36,222,166
16 Calhoun	330	28,795	87 53	255	2,255	8 48	585	31,050	53 08	1,021,210
Cass	3,014	676,079	224 31	2,877	63,353	22 02	5,891	739,432	125 52	3,752,646
Greene	3,845	477,917	124 29	961	14,555	15 56	4,806	492,472	102 55	3,685,325
Jersey	2,769	387,546	139 96	2,218	16,502	7 44	4,987	404,048	81 02	2,183,325
Macoupin	6,489	894,442	137 84	3,781	42,101	11 40	10,270	937,543	91 29	5,860,665
Morgan	4,600	1,926,828	397 09	1,815	74,138	40 12	6,445	1,900,686	294 90	7,956,941
Pike	3,745	446,393	119 20	2,130	25,922	12 17	5,875	472,315	80 39	4,225,987
Scott	1,147	201,157	175 38	1,270	14,472	11 40	2,417	215,629	89 21	1,914,882
Total	25,939	$4,938,957		15,337	$254,578		41,276	$5,193,535		$30,600,981
17 Christian	7,125	969,246	136 03	2,044	37,465	18 33	9,169	1,006,711	109 79	6,989,690
Logan	5,921	784,479	132 49	2,969	53,175	17 91	8,890	837,654	94 22	6,374,436
Macon	7,867	2,869,273	364 72	5,644	259,366	45 95	13,511	3,128,639	231 56	9,890,894
Menard	3,017	381,214	126 35	545	15,313	28 09	3,562	396,527	111 32	3,293,488
Sangamon	12,846	4,743,076	369 24	7,667	373,476	48 71	20,513	5,116,552	249 42	15,359,507
Total	36,776	$9,747,288		18,869	$738,795		55,645	$10,486,083		$41,908,024
18 Bond	1,829	170,041	92 97	1,627	9,625	5 92	3,456	179,666	51 98	1,473,133
Fayette	2,513	318,393	126 70	2,106	13,381	6 35	4,619	331,774	71 82	2,896,532
Madison	8,690	2,527,222	290 82	14,146	374,801	26 50	22,836	2,902,123	127 09	10,080,027
Montgomery	6,467	669,334	103 50	3,584	28,646	7 99	10,051	697,980	69 44	4,777,259
Moultrie	3,140	247,703	78 91	215	2,100	9 77	3,355	249,803	74 48	3,191,303
Shelby	4,969	477,874	96 13	2,281	20,775	9 11	7,250	498,449	68 75	4,664,054
Total	27,608	$4,410,457		23,959	$449,428		51,567	$4,859,885		$26,972,308
19 Clark	2,212	255,553	115 53	1,648	19,269	11 69	3,860	274,822	71 20	2,146,454
Coles	5,993	1,013,358	178 94	1,725	4,465	25 19	7,388	1,076,823	143 05	5,554,216
Crawford	2,319	216,216	93 24	806	15,008	16 86	3,269	241,224	72 05	2,148,239
Cumberland	998	97,484	97 79	1,114	10,867	9 50	2,142	108,351	50 58	1,253,845
Edgar	3,858	659,431	171 82	2,710	52,219	19 23	6,548	711,650	108 68	6,967,595
Effingham	3,274	330,971	101 09	1,829	15,537	8 49	5,103	346,508	67 90	2,138,337
Jasper	1,172	122,696	104 69	1,159	16,070	13 87	2,331	138,766	59 53	1,817,998
Lawrence	1,402	121,048	86 34	1,109	9,168	8 27	2,511	130,216	51 85	1,602,295
Richland	1,403	212,784	142 52	1,185	18,496	15 61	2,678	231,280	86 36	1,597,696
Total	22,571	$3,029,541		13,390	$200,099		35,779	$3,225,649		$24,326,553

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Statement—Continued.

Districts.	Counties.	Real estate—town and city lots.									Total value of personal property, lands and lots.
		Improved town and city lots.			Unimproved town and city lots.			Total town and city lots.			
		Number of lots.	Value.	Av. val. per lot.	Number of lots.	Value.	Av. val. per lot.	Number of lots.	Value.	Av. val. per lot.	
20	Clay	1,719	$238,179	$138 56	1,459	$18,321	$12 56	3,178	$256,500	$80 71	$1,779,174
	Edwards	1,351	136,879	101 32	898	9,104	10 14	2,249	145,983	64 91	1,190,864
	Franklin	795	93,797	117 98	770	11,760	15 27	1,565	105,557	67 45	1,147,700
	Gallatin	1,354	123,024	90 81	1,596	12,529	7 85	2,950	135,553	45 95	1,177,120
	Hamilton	837	96,968	115 85	1,068	11,331	10 61	1,905	108,299	56 85	1,083,212
	Hardin	269	30,798	114 49	201	1,875	2 01	470	32,673	69 52	319,905
	Jefferson	2,385	275,562	115 54	2,489	18,351	7 37	4,874	293,913	60 30	2,195,078
	Wabash	1,548	248,927	160 80	1,064	22,320	20 97	2,612	271,247	103 35	1,434,507
	Wayne	1,607	170,736	106 24	1,452	13,565	9 34	3,059	184,301	60 25	1,768,680
	White	2,351	238,641	101 08	2,067	17,519	8 48	4,418	256,160	57 98	2,004,020
	Total	14,216	$1,653,511		13,064	$136,675		27,280	$1,790,186		$14,070,980
21	Clinton	1,834	241,153	131 49	2,996	30,607	10 22	4,830	271,760	56 27	2,140,823
	Marion	3,468	648,411	186 97	3,820	47,792	12 51	7,288	696,203	95 53	2,575,270
	Monroe	1,040	211,054	202 97	946	12,721	13 42	1,986	223,775	112 68	1,983,955
	Perry	2,220	288,076	129 76	1,681	16,664	9 90	3,901	304,740	78 12	1,782,367
	Randolph	4,132	464,958	112 53	4,678	41,188	8 80	8,810	506,146	57 45	2,835,086
	St. Clair	11,083	3,516,045	317 25	28,946	1,107,573	38 27	40,029	4,623,618	115 56	13,125,796
	Washington	2,672	171,171	64 06	2,588	9,541	3 69	5,260	180,712	34 35	2,284,970
	Total	26,449	$5,540,868		45,655	$1,386,086		72,104	$6,806,954		$36,731,267

22 Alexander	2,637	798,418	219 53	3,846	115,380	30 00	7,487	913,798	122 12	1,814,511
Jackson	3,274	450,792	137 69	2,777	42,121	15 17	6,051	432,913	81 45	2,112,817
Johnson	712	74,921	105 23	1,492	10,723	7 19	2,204	85,644	38 86	769,787
Massac	1,868	199,706	101 07	758	9,472	12 50	2,626	209,177	79 66	961,953
Pope	511	73,210	143 27	602	9,926	16 49	1,113	83,136	74 70	814,354
Pulaski	1,367	164,225	129 62	1,847	33,270	18 07	3,114	197,595	63 45	948,411
Union	1,488	253,605	170 43	1,331	16,735	12 57	2,819	270,330	95 90	1,789,496
Saline	1,594	159,482	100 05	1,162	6,710	5 77	2,756	166,192	60 30	1,434,994
Williamson	2,426	249,405	102 80	2,099	25,736	12 44	4,494	275,141	61 22	1,860,383
Total	16,777	$2,423,763	.....	15,883	$270,163	.....	32,660	$2,693,926	.....	$12,596,736
Grand aggregate	738,001	$322,294,514	$436 71	809,743	$53,998,286	866 56	1,547,744	$376,202,900	$234 06	$989,128,541

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Statement—Continued.

DISTRICTS.	COUNTIES.	RAILROAD PROPERTY ASSESSED IN COUNTIES.								
		CLASS C—PERSONAL PROPERTY	CLASS D—LANDS.			CLASS D—LOTS.			Total value of railroad property assessed in county.	Total value of all property assessed in county.
		Value	Number of acres.	Value.	Av. val. per acre.	Number of lots.	Value.	Av. val. per lot.		
1	Cook	$699,165	978	$130,653	$133 59	1,750	$1,254,368	$71,678	$2,084,186	$365,191,329
2	Lake	1,616	724	14,330	19 79	12	325	2,708	16,271	7,099,984
3										
4										
5	Total	$700,781	1,702	$144,983	.....	1,762	$1,254,693	.....	$2,100,457	$372,291 313
6										
7										
8	DeKalb	3,139	.....	.....	.....	.....	255	.....	3,394	8,171,823
	DuPage	2,025	822	12,241	14 89	1	60	60 00	14,326	5,852,742
	Grundy	23,740	.....	.....	.....	.....	.....	.....	23,740	4,763,567
	Kane	120,710	286	10,249	35 84	16	1,316	82 25	132,275	13,529,659
	Kendall	3,559	.....	.....	.....	.....	.....	.....	3,559	3,384,848
	McHenry	2,818	201	1,433	7 13	.....	.....	.....	4,251	6,741,168
	Total	$155,991	1,309	$23,923	.....	17	$1,631	.....	$181,545	$42,443,807
9	Boone	814	150	1,806	12 04	.....	.....	.....	2,620	3,876,141
	Carroll	14,882	9	80	8 89	.....	.....	.....	14,962	3,857,167
	Jo Daviess	1,454	199	1,732	8 70	3	45	15 00	3,231	5,177,966
	Lee	1,309	.....	140	.....	.....	.....	.....	1,449	8,393,893
	Ogle	915	51	895	17 55	1	5	5 00	1,815	7,705,417
	Stephenson	2,537	79	850	10 76	.....	.....	.....	3,387	7,076,612
	Winnebago	2,235	80	1,241	15 51	28	6,740	24,071	10,216	10,585,626
	Total	$24,146	568	$6,744	.....	32	$6,790	.....	$37,680	$46,672,822
10	Henry	3,049	40	2,258	56 45	.....	.....	.....	5,307	8,711,141
	Knox	31,785	41	792	19 32	11	690	54 55	33,177	9,395,246
	Mercer	124	.....	.....	.....	.....	.....	.....	124	4,716,749
	Rock Island	1,560	.....	.....	.....	.....	.....	.....	1,560	7,652,616
	Stark	420	.....	.....	.....	4	60	15 00	480	3,145,185
	Whiteside	1,238	589	7,648	12 98	4	190	47 50	9,076	7,515,532
	Total	$38,176	670	$10,698	.....	19	$850	.....	$49,724	$41,136,869

11	Bureau	$3,120	161	$657	4 03				3,777	9,176,998
	LaSalle	1,019	49	964	19 67	2	36	18 00	2,019	16,938,247
	Livingston	950				7	348	49 71	1,298	12,151,071
	Woodford	257	9	344	38 22				601	5,974,550
	Totals	$5,346	219	$1,965		9	$384		$7,695	$44,240,866
12	Iroquois	236	5	41	8 00				277	10,664,943
	Kankakee	1,843		2,788			10,652		15,283	5,577,174
	Vermilion	13,524	162	2,356	14 54	87	836	9 60	16,715	11,955,982
	Will	20,519	434	16,990	39 15	30	7,805	260 17	45,314	14,201,641
	Total	$36,122	601	$22,175		117	$19,292		$77,589	$42,399,740
13	Champaign	3,703	19	730	38 42	3	180	60 00	4,613	13,448,664
	DeWitt	1,960					400		2,360	4,261,784
	Douglas									4,292,938
	Ford	1,106							1,106	5,486,987
	McLean	85,793	5	300	60 00				86,093	17,893,827
	Piatt									5,174,868
	Total	$92,562	24	$1,030		3	$580		$94,172	$50,559,068
14	Fulton	3,049	20	200	10 00				3,249	7,283,571
	Marshall	1,204	119	480	4 03				1,684	3,970,265
	Mason	2,840	19	3,500	163 16	1	200	200 00	6,640	3,348,167
	Peoria	9,191	29	287	9 90	132	6,820	310 00	16,298	16,295,314
	Putnam	85	69	814	11 80	2	10	500	909	1,099,122
	Tazewell	1,084	193	3,286	17 03	46	423	9 20	4,793	6,631,587
	Total	$17,453	449	$8,567		71	$7,453		$33,473	$38,628,026
15	Adams	4,575	57	400	7 01	1	3,000	3,000 00	7,975	11,149,065
	Brown	122							122	1,493,380
	Hancock	793							793	6,595,497
	Henderson	649							649	2,617,443
	McDonough	80	10	171	17 10				251	6,117,727
	Schuyler	333	44	44	1 00				377	2,379,880
	Warren	1,907				6	300	50 00	2,207	5,971,548
	Total	$8,459	111	$615		7	$3,300		$12,374	$36,234,540
16	Calhoun									1,021,210
	Cass	6,550							6,550	3,759,196
	Greene	1,240							1,240	3,498,565
	Jersey	129	6	56	16 00	35	440	12 57	665	2,183,990
	Macoupin	990	93	948	10 19	19	544	28 63	2,482	5,863,147
	Morgan	611	12	175	14 58				786	7,957,727
	Pike	2,721	503	734	2 42				3,455	4,229,442
	Scott	1,086							1,086	1,915,968
	Total	$13,327	614	$1,953		54	$984		$16,264	$30,617,245

Districts	Counties.	Railroad property assessed in counties.								
		Class C—Personal Property	Class D—Lands.			Class D—Lots.			Total value of railroad property assessed in county.	Total value of all property assessed in county.
		Value.	Number of acres.	Value.	Av. val. per acre.	Number of lots.	Value.	Av. val. per lot.		
17	Christian	$1,999	11	$220	$20 00	5	$1,110	$222 00	$3,329	$6,993,028
	Logan	754							754	6,375,190
	Macon	2,691	38	1,032	27 16	4	60	15 00	3,783	9,894,677
	Menard									3,293,488
	Sangamon	7,194		990		119	2,614	21 96	10,798	15,370,305
	Total	$12,638	49	$2,242		128	$3,784		$18,664	$41,926,688
18	Bond	185	25	1,060	42 40	2	18	9 00	1,263	1,474,396
	Fayette	293				1	280	280 00	573	2,837,105
	Madison	4,075	67	11,904	177 67		600		16,579	10,046,606
	Montgomery	1,000				2	20	10 00	1,020	4,778,279
	Moultrie	780							780	3,192,083
	Shelby	2,986							2,986	4,667,040
	Total	$9,319	92	$12,964		5	$918		$23,201	$26,995,509
19	Clark	185	3	30	10 00	10	145	14 50	360	2,146,814
	Coles	11,503	49	1,000	20 41	1	50	50 00	12,553	5,566,769
	Crawford	1,709		250		13	390	30 00	2,349	2,150,588
	Cumberland		40	590	15 00	1	10	10 00	600	1,254,443
	Edgar									6,067,565
	Effingham									2,138,337
	Jasper	25							25	1,818,023
	Lawrence	855	40	104	2 60				959	1,603,254
	Richland		45	485	10 78	1	100	100 00	585	1,598,191
	Total	$14,277	177	$2,459		26	$695		$17,431	$24,343,984

									$392	$1,779,566
20	Clay	392							90	1,191,054
	Edwards	90							3,101	1,150,801
	Franklin	3,101				51	2,780	54 51	3,665	1,180,785
	Gallatin	885							700	1,063,912
	Hamilton	760								319,905
	Hardin		48	305	6 35	55	2,195	39 91	2,500	2,197,578
	Jefferson	1,687					40		1,687	1,426,194
	Wabash	105		40					185	1,768,865
	Wayne									2,004,020
	White									
	Total	$6,960	48	$345		106	$5,015		$12,320	$14,082,680
		840				1	45	45 00	885	2,141,708
21	Clinton	385	5	542	108 40				927	2,576,197
	Marion		6	200	33 33				200	1,984,155
	Monroe	875	73	666	8 18	2	8	4 00	1,549	1,783,916
	Perry	96							96	2,835,182
	Randolph	6,446	1,487	65,968	44 36	546	30,023	64 14	107,437	13,236,233
	St. Clair	1,002	7	33	4 71	8	165	20 63	1,200	2,286,170
	Washington									
	Total	$9,644	1,578	$67,409		557	$35,241		$112,294	$26,843,361
										1,814,511
22	Alexander	6,670				1	115	115 00	6,785	2,119,602
	Jackson	643	97	97	1 00	22	265	12 05	1,005	770,792
	Johnson	650	82	640	7 80	10	430	43 00	1,720	963,673
	Massac									814,354
	Pope									948,411
	Pulaski								40	1,789,536
	Union	40							3,555	1,438,549
	Saline	3,455				3	100	33 33		1,860,383
	Williamson									
	Total	$11,458	179	$737		36	$910		$13,105	$12,519,811
	Grand aggregate	$1,156,659	7,190	$308,809	$42 95	2,949	$1,342,520	$45,525	$2,807,988	$891,936,529

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Comparative Statement of Assessments by Local Assessors for the years 1900 and 1901 in the Several Counties of the State of Illinois.

Counties.	Number of district.	Assessment for the year 1900.	Assessment for the year 1901.	Increase in assessment of 1901 over 1900.	Decrease in assessment of 1901 over 1900.
Adams	15	$10,865,412	$11,149,065	$283,653	
Alexander	22	1,740,472	1,814,511	74,039	
Bond	18	1,443,273	1,474,396	31,123	
Boone	9	3,794,244	3,876,141	81,897	
Brown	15	1,588,917	1,493,380		$95,537
Bureau	11	9,046,118	9,176,998	130,880	
Calhoun	16	988,974	1,021,210	32,236	
Carroll	9	3,837,178	3,857,167	19,989	
Cass	16	3,672,188	3,759,196	87,008	
Champaign	13	13,259,737	13,448,664	188,927	
Christian	17	6,889,760	6,993,028	103,268	
Clark	19	2,026,593	2,146,814	120,221	
Clay	20	1,708,990	1,779,566	70,576	
Clinton	21	2,119,262	2,141,708	22,446	
Coles	19	5,510,224	5,566,769	56,545	
Cook	1, 2, 3, 4, 5, 6	260,564,522	365,191,329	104,626,807	
Crawford	19	2,143,723	2,150,588	6,865	
Cumberland	19	1,207,702	1,254,443	46,741	
DeKalb	8	8,111,927	8,171,823	59,896	
DeWitt	13	4,119,190	4,261,784	142,594	
Douglas	13	4,234,403	4,292,938	58,535	
DuPage	8	5,812,757	5,852,742	39,985	
Edgar	19	5,887,826	6,067,565	179,739	
Edwards	20	1,176,163	1,191,054	14,891	
Effingham	19	1,996,114	2,138,337	142,223	
Fayette	18	2,678,190	2,837,105	158,915	
Ford	13	5,403,586	5,486,987	83,401	
Franklin	20	1,128,146	1,150,801	22,655	
Fulton	14	7,155,949	7,283,571	127,622	
Gallatin	20	1,164,373	1,180,785	16,412	
Greene	16	3,604,208	3,686,565	82,357	
Grundy	8	4,671,321	4,763,567	92,246	
Hamilton	20	1,217,748	1,063,912		153,836
Hancock	15	6,286,660	6,505,497	208,837	
Hardin	20	318,062	319,905	1,843	
Henderson	15	3,280,882	2,617,443		663,439
Henry	10	8,691,579	8,711,141	19,562	
Iroquois	12	10,615,573	10,664,943	49,370	
Jackson	22	2,115,858	2,119,602	3,744	
Jasper	19	1,745,015	1,818,023	73,008	
Jefferson	20	2,194,974	2,197,578	2,604	
Jersey	16	2,170,065	2,183,990	13,925	
JoDaviess	9	5,226,978	5,177,966		49,012
Johnson	22	758,177	770,792	12,615	
Kane	8	13,282,258	13,529,659	247,401	
Kankakee	12	6,555,041	5,577,174		977,867
Kendall	8	3,347,191	3,384,848	37,657	
Knox	10	9,365,247	9,395,246	29,899	
Lake	7	6,668,289	7,099,984	430,985	
LaSalle	11	16,308,348	16,938,247	629,699	
Lawrence	19	1,564,447	1,603,254	38,807	
Lee	9	8,291,511	8,393,893	102,382	
Livingston	11	12,096,919	12,151,071	54,152	
Logan	17	6,464,359	6,375,190		89,169
Macon	17	9,867,782	9,894,677	26,895	
Macoupin	16	5,813,438	5,863,147	49,709	
Madison	18	9,704,763	10,046,606	341,843	
Marion	21	2,556,274	2,576,197	19,923	
Marshall	14	3,771,186	3,970,265	199,079	
Mason	14	3,361,102	3,348,167		12,935
Massac	22	988,373	963,673		24,700
McDonough	15	5,751,150	6,117,727		366,577
McHenry	8	6,567,184	6,741,168	173,984	
McLean	13	17,700,729	17,893,827	193,098	
Menard	17	3,252,927	3,293,488	40,561	
Mercer	10	4,687,134	4,716,749	29,615	10,385
Monroe	21	1,965,015	1,984,155	19,140	
Montgomery	18	4,818,876	4,778,279		40,597
Morgan	16	7,813,844	7,957,727	143,883	
Moultrie	15	3,023,519	3,192,083	168,564	
Ogle	9	7,627,746	7,705,417	77,671	

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Statement—Concluded.

COUNTIES.	Number of district.	Assessment for the year 1900.	Assessment for the year 1901.	Increase in assessment of 1901 over 1900.	Decrease in assessment of 1901 over 1900.
Peoria	14	$16,139,043	$16,295,314	$156,271	
Perry	21	1,794,908	1,783,916		$10,992
Piatt	13	5,053,760	5,174,868	121,108	
Pike	16	4,292,378	4,229,442		62,936
Pope	22	784,579	814,354	29,775	
Pulaski	22	942,450	948,411	5,961	
Putnam	14	1,072,692	1,099,122	26,430	
Randolph	21	2,802,246	2,835,182	32,936	
Richland	19	1,481,004	1,598,191	117,187	
Rock Island	10	7,632,992	7,652,616	19,624	
Saline	22	1,412,761	1,438,549	25,788	
Sangamon	17	14,889,688	15,370,205	480,687	
Schuyler	15	2,362,662	2,379,880	17,218	
Scott	16	1,828,060	1,915,968	87,908	
Shelby	18	4,514,443	4,667,040	152,597	
Stark	10	3,128,832	3,145,185	16,353	
St. Clair	21	12,821,671	13,236,233	414,562	
Stephenson	9	6,913,943	7,076,612	162,669	
Tazewell	14	6,563,850	6,631,587	67,737	
Union	22	1,796,166	1,789,536		6,630
Vermilion	12	11,536,917	11,955,982	319,065	
Wabash	20	1,411,334	1,426,194	14,860	
Warren	15	5,998,169	5,971,548		26,621
Washington	21	2,274,281	2,286,170	11,889	
Wayne	20	1,839,045	1,768,865		70,180
White	20	1,957,650	2,004,020	46,370	
Whiteside	10	7,516,093	7,515,932		161
Will	12	13,269,741	14,201,641	931,900	
Williamson	22	1,777,192	1,860,383	83,191	
Winnebago	9	10,531,377	10,585,626	54,249	
Woodford	11	5,833,496	5,974,550	141,054	
Totals		$779,512,078	$891,936,529	$114,242,486	$2,651,189

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Statement showing the aggregate rate per cent of Equalization by the State Board for the years 1898, 1899, 1900 and 1901.

COUNTIES.	1898.		1899.		1900.		1901.	
	Add.	Ded.	Add.	Ded.	Add.	Ded.	Add.	Ded.
Adams		27		6		15		
Alexander		5	8			12	2	
Bond		2	22		10		21	
Boone		8		7		17		1
Brown				5		10	11	
Bureau		16	1			13	1	
Calhoun			6			14		
Carroll		1		1		16		
Cass		8		1		13		3
Champaign		16		12		26		9
Christian		12		1		15		
Clark	10		10			2	9	
Clay		15		4		18		3
Clinton		8	1			8	6	
Coles		10		1		15		1
Cook	29			4	10			
Crawford	2			1		18		4
Cumberland	10		9			3	11	
DeKalb		10	1			12	1	
DeWitt		7	3			11	3	
Douglas		11	1			14	2	
DuPage		4		5		20		5
Edgar	3		1			13		
Edwards		22		3		16		1
Effingham	7		1			13		
Fayette	8		21		6		11	
Ford		6		3		18		3
Franklin	10		16		1		14	
Fulton		3		2		17		2
Gallatin	45		7			7	7	
Greene		2	3			11		
Grundy		1		2		18		5
Hamilton	18		15				32	
Hancock		7		1		15		
Hardin		8	28		16		24	
Henderson			6			13		
Henry		21				13	1	
Iroquois		20		14		30		15
Jackson	15		10		7		18	
Jasper				4		18		28
Jefferson	15		4			17		2
Jersey		2	12			2	12	
JoDaviess		15		6		21		5
Johnson		13	12			6	11	
Kane		11				11	1	
Kankakee				11		19	15	
Kendall		12		4		18		4
Knox		2		2		16		
Lake		11	4			3	7	
LaSalle		19		4		18		2
Lawrence	17		1			15		
Lee		17		9		21		7
Livingston		2		6		19		5
Logan		8		5		12	3	
Macon		15		8		21		4
Macoupin		1	6			8	5	
Madison		9	2			14	1	
Marion		3	16			11	2	
Marshall		14	1			12		
Mason		2		4		18		5
Massac		1	25			39		5
McDonough			5			15		
McHenry		8		1		16		2
McLean		8		5		19		3
Menard		16				15		1
Mercer		1	2			12	3	
Monroe			7			16		2
Montgomery	3			3		18		
Morgan		15		1		17		
Moultrie	2		1			4		
Ogle		3	1			15		
Peoria		16		7		17		
Perry		7	4			13	2	

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Statement—Continued.

Counties.	1898		1899.		1900.		1901.	
	Add	Ded.	Add.	Ded.	Add.	Ded.	Add.	Ded.
Piatt		7		10		22		9
Pike		11				14		4
Pope	4		19			2	16	
Pulaski		22		8	2		2	
Putnam		12	9			7	7	
Randolph		8	14			10	5	
Richland			1			15		
Rock Island		17		5		13		
Saline	1		4			11	4	
Sangamon		13	2			12	2	
Schuyler			1			14		
Scott		2				16		4
Shelby		8	8			5	7	
Stark		10		7		22		8
St. Clair		6	5			12	3	
Stephenson		25	1			13	3	
Tazewell		9				15		1
Union		1		1		16		
Vermilion		10		2		22	1	
Wabash		20		4		17		2
Warren				4		16		
Washington		7	13			1	12	
Wayne	21		15				22	
White	26		18			2	12	
Whiteside		19	2			12	2	
Will		5		5		18		
Williamson	5		9			9	15	
Winnebago		21		1		17		2
Woodford				4		19		4

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Statement Showing the Aggregate Equalized Assessment of Taxable Property in the several Counties in the State of Illinois for the years 1898, 1899, 1900 and 1901, inclusive.

COUNTIES.	1898.	1899.	1900.	1901.
Adams	$ 10,295,090	$ 10,918,633	$ 10,702,939	$ 11,149,065
Alexander	2,472,521	2,205,671	1,890,440	1,842,650
Bond	2,630,194	2,064,725	1,931,884	1,790,411
Boone	3,281,637	3,859,442	3,536,673	3,818,424
Brown	1,941,866	1,731,837	1,570,983	1,659,190
Bureau	8,899,194	10,292,059	9,279,431	9,294,946
Calhoun	1,422,569	1,046,725	851,834	1,021,210
Carroll	1,459,891	4,586,170	4,010,694	3,857,167
Cass	3,652,879	3,969,526	3,512,718	3,657,172
Champaign	9,216,801	12,195,476	10,466,891	12,122,083
Christian	6,339,412	7,243,431	6,337,790	6,903,028
Clark	2,172,173	2,650,778	2,360,588	2,352,808
Clay	1,715,366	1,900,914	1,682,937	1,724,707
Clinton	2,760,181	2,526,700	2,346,586	2,271,042
Coles	5,139,759	5,947,010	5,168,121	5,488,557
Cook	249,782,679	381,548,581	306,957,900	365,191,329
Crawford	1,846,277	2,146,509	1,882,571	2,064,890
Cumberland	1,572,078	1,642,136	1,466,625	1,586,179
DeKalb	8,031,939	9,215,405	8,116,534	8,264,632
DeWitt	3,635,456	4,465,317	3,935,469	4,378,151
Douglas	2,862,585	4,557,344	4,041,897	4,479,598
DuPage	5,839,041	6,601,110	5,656,808	5,540,942
Edgar	6,125,800	6,601,735	5,777,345	6,067,565
Edwards	1,222,978	1,219,131	1,121,580	1,176,766
Effingham	2,826,986	2,617,359	2,312,824	2,138,387
Fayette	3,404,090	3,569,757	3,218,896	3,161,120
Ford	3,901,803	5,562,406	4,896,425	5,334,064
Franklin	1,253,484	1,475,119	1,346,177	1,316,812
Fulton	7,808,134	7,705,930	6,671,642	7,112,749
Gallatin	1,384,136	1,438,576	1,247,018	1,269,536
Greene	4,908,367	4,297,132	3,713,394	3,686,468
Grundy	4,365,125	5,360,696	4,691,127	4,521,343
Hamilton	1,585,014	1,586,194	1,404,499	1,400,768
Hancock	7,394,755	6,985,692	6,096,601	6,505,497
Hardin	648,384	429,719	369,823	398,137
Henderson	3,062,969	3,150,639	3,419,555	2,617,443
Henry	8,906,573	9,551,891	8,570,297	8,812,080
Iroquois	8,010,126	9,657,998	8,226,971	9,089,615
Jackson	3,204,896	2,715,123	2,751,171	2,503,792
Jasper	1,829,242	1,826,451	1,602,982	1,766,325
Jefferson	2,176,191	2,476,927	2,196,961	2,153,540
Jersey	3,049,424	2,820,300	2,499,632	2,454,050
JoDaviess	3,782,619	5,420,283	4,647,640	4,914,839
Johnson	1,389,827	1,048,954	1,010,906	857,361
Kane	13,641,900	15,632,497	13,227,289	13,718,850
Kankakee	5,529,527	6,895,644	6,222,752	6,411,804
Kendall	3,426,736	3,529,624	3,060,058	3,257,499
Knox	10,159,331	10,095,108	9,032,899	9,395,246
Lake	7,228,840	7,967,844	7,453,244	7,694,694
LaSalle	14,861,420	17,208,114	15,144,472	16,594,230
Lawrence	1,96,715	1,769,653	1,543,141	1,693,254
Lee	6,730,580	8,133,304	7,185,955	7,420,704
Livingston	10,288,629	12,598,696	11,386,583	11,534,054
Logan	6,918,833	7,339,862	6,353,438	6,591,735
Macon	8,827,866	9,715,596	8,377,440	9,460,728
Macoupin	7,322,739	7,166,966	6,303,800	6,160,116
Madison	11,558,908	11,477,402	10,364,203	10,188,852
Marion	3,466,277	3,242,926	2,577,082	2,628,173
Marshall	3,869,385	4,487,931	3,901,411	3,970,265
Mason	3,491,439	3,808,426	3,138,173	3,188,423
Massac	1,589,915	1,310,209	812,361	919,523
McDonough	6,925,312	6,222,108	5,394,936	6,117,727
McHenry	6,060,493	7,183,875	6,299,423	6,629,305
McLean	15,995,836	18,115,753	15,811,096	17,389,491
Menard	3,731,722	3,418,499	3,099,036	3,249,061
Mercer	4,973,270	5,191,913	4,612,768	4,807,540
Monroe	2,682,723	2,244,638	1,801,700	1,957,004
Montgomery	6,204,050	5,304,332	4,666,072	4,778,279
Morgan	7,905,645	8,615,058	7,133,990	7,957,727
Moultrie	2,951,930	3,449,733	3,324,340	3,192,083
Ogle	7,936,264	8,743,106	7,615,763	7,705,417
Peoria	15,319,465	16,586,626	15,106,192	16,295,314
Perry	2,023,743	2,130,396	1,865,248	1,819,445
Piatt	4,128,327	5,087,441	4,444,568	4,722,681
Pike	4,864,771	5,035,581	4,412,740	4,089,514

Comparative Statement Showing Aggregate Assessment made by Local Assessors in the Several Counties for the [illegible] *with the Increase or Decrease in the Assessment of each County for the year 1901, on the Assessment for*

Counties.	1898.	1899.	1900.	1901.	Increase of assessment of 1901 over 1900.	Decrease of assessment of 1901 over 1900.	Per cent of increase of 1901 over 1900.	Per cent of decrease of 1901 over 1900.	Average rate per cent of equalization by State Board of assessment of 1900.		Average rate per cent of equalization by State Board of assessment of 1901.	
									Add.	Ded.	Add.	Ded.
Adams	$12,916,296	$13,046,962	$13,966,412	$11,149,055	782		2			15		
Alexander	2,990,131	1,784,270	1,740,472	1,914,511	74,039		4			12	2	
Bond	3,315,696	1,496,780	1,442,273	1,474,396	31,123		2		10		21	
Boone	2,156,814	2,759,940	2,794,244	2,976,141	81,897		2			17		
Brown	1,797,296	1,605,590	1,595,977	1,489,890		$ 95,587		6		10	11	
Bureau	9,309,547	8,791,682	9,046,118	9,176,936	130,860		1			13	1	
Calhoun	1,422,459	994,874	996,974	1,021,210	23,236		2			14		
Carroll	3,716,797	3,945,113	3,927,179	3,953,167	25,988		1			16		
Cass	3,622,399	3,696,185	3,672,179	3,759,196	87,006		2			13		
Champaign	10,211,572	13,090,694	13,259,727	13,448,084	188,357		1			24		
Christian	6,697,906	6,826,953	6,959,709	6,998,029	103,308		1			15		
Clark	3,642,547	3,770,942	3,832,753	3,846,914	14,161		6			2	9	
Clay	1,726,615	1,762,838	1,705,906	1,779,568	73,576		4			10		
Clinton	2,939,436	2,110,173	2,119,282	2,141,708	22,446		1			9	6	
Coles	5,132,970	5,290,961	5,310,753	5,365,709	54,945		1			15		
Cook	256,941,102	279,626,224	280,564,522	265,191,329		104,626,807			10			
Crawford	1,695,560	2,029,908	2,142,722	2,150,566	6,965					18		
Cumberland	1,143,956	1,229,097	1,207,702	1,254,443	46,741		4			9	11	
DeKalb	7,799,126	8,106,617	8,111,927	8,171,823	59,896		1			12	1	
DeWitt	3,569,179	4,068,747	4,119,190	4,261,784	142,594		3			11	3	
Douglas	3,861,916	4,122,765	4,234,402	4,226,908		98,525	1			14	2	
DuPage	6,697,267	5,877,206	5,912,757	5,952,742	39,985		1			20		
Edgar	6,250,186	6,660,464	6,867,828	6,967,965	179,739		3			13		
Edwards	1,264,539	1,112,977	1,178,163	1,191,654	14,891		1			16		
Effingham	2,087,711	2,029,950	1,996,114	2,138,357	142,223		7			13		
Fayette	5,791,152	5,658,060	5,675,196	5,827,136	156,915		6		9		11	
Ford	2,695,969	5,291,819	5,466,566	5,496,967	82,401		2			18		
Franklin	1,020,526	1,097,367	1,128,144	1,150,801	22,656		1		1		14	
Fulton	7,397,777	7,134,670	7,185,529	7,252,671	127,142		2			17		
Gallatin	842,020	1,795,566	1,164,372	1,180,788	16,412		1			7	7	
Greene	4,459,959	3,59,539	4,004,[illegible]	3,946,570	92,357		2			11		
Grundy	3,539,630	4,058,224	4,071,791	4,760,567	92,746		2			18	2	
Hamilton	1,179,570	1,240,259	1,217,[illegible]	1,063,912		152,836		14			22	
Hancock	7,149,707	6,360,367	6,294,[illegible]	6,568,497	208,037		2			15		
Hardin	796,574	855,150	818,062	819,005	1,943		1		16		24	
Henderson	2,697,804	2,457,159	2,280,962	2,617,443		662,439		25		13		
Henry	9,972,741	9,685,224	9,691,579	9,711,181	19,582		2			13		
Iroquois	9,620,112	10,260,780	10,615,873	10,664,963	49,770					20		
Jackson	2,398,997	2,084,475	2,115,[illegible]	2,119,603	3,744				7		18	
Jasper	4,642,301	1,731,281	1,745,[illegible]	1,818,252	73,026		4			18		
Jefferson	2,539,266	2,622,690	2,194,974	2,197,579	2,604					17		
Jersey	2,724,374	2,123,035	2,170,005	2,182,999	13,925		1			2	12	
JoDaviess	3,261,211	5,222,800	5,226,[illegible]	5,177,[illegible]		49,012		1		21		
Johnson	1,209,122	736,742	736,767	770,782	12,615		2			6	11	
Kane	13,694,869	16,768,186	13,282,258	13,525,650	247,401		1			21	1	
Kankakee	4,803,062	6,789,697	6,855,761	6,877,174		277,987		18		19	18	
Kendall	3,428,494	3,815,807	3,347,191	3,264,589	27,697		1			16		
Knox	9,170,487	9,140,524	9,265,847	9,295,246	29,399					16		
Lake	7,598,815	6,726,988	6,959,969	7,040,994	420,985		6			3	7	
LaSalle	16,172,594	16,134,[illegible]	16,[illegible]	16,[illegible]	620,[illegible]		4			18		
Lawrence	1,290,796	1,554,630	1,564,447	1,608,254	29,977		2			14		
Lee	7,863,597	8,229,962	8,291,611	8,332,[illegible]	102,[illegible]					21		
Livingston	8,922,231	11,730,227	12,006,919	12,151,071	84,152					17		
Logan	6,811,696	7,075,196	6,444,[illegible]	6,[illegible]		89,146		1		21		
Macon	9,744,486	9,852,863	9,987,792	9,864,677	26,886					21		
Macoupin	6,415,045	5,852,647	5,[illegible]	5,943,147	49,739		1			6		
Madison	10,534,628	9,536,[illegible]	9,704,765	10,[illegible]	344,[illegible]		3			14	1	
Marion	2,277,351	2,557,668	2,566,274	2,576,197	19,923		1			11	3	
Marshall	3,991,576	3,821,253	3,771,186	3,[illegible]	190,079		5			13		
Mason	3,117,381	3,548,539	3,361,102	3,[illegible]		12,988				20		
Massac	1,514,461	963,[illegible]	989,374	963,[illegible]		24,706		3		20		
McDonough	6,415,096	5,475,917	5,751,150	6,417,723	266,577		6			18		
McHenry	5,800,147	6,650,795	6,561,194	6,741,[illegible]	179,[illegible]		3			18		
McLean	16,798,756	17,589,[illegible]	17,[illegible]	17,[illegible]	193,[illegible]		1			17		
Menard	4,044,535	3,188,[illegible]	3,282,227	3,[illegible]	40,961		1			13		
Mercer	4,520,861	4,610,[illegible]	4,687,[illegible]	4,676,[illegible]		10,396				12		
Monroe	2,538,[illegible]	1,943,[illegible]	1,965,[illegible]	1,984,[illegible]	19,149		1			16		
Montgomery	1,[illegible]	4,[illegible]	4,[illegible]	4,[illegible]		49,597		1		16		
Morgan	5,861,149	6,022,[illegible]	7,[illegible]	7,957,727	143,[illegible]		2			17		
Moultrie	2,[illegible]	3,007,154	3,[illegible]	3,192,[illegible]	168,564		5			4		
Ogle	7,[illegible]	7,[illegible]	7,[illegible]	7,[illegible]	77,671		1			17		
Peoria	16,274,[illegible]	16,[illegible]	16,[illegible]	16,[illegible]	156,[illegible]		1			17		
Perry	1,[illegible]	1,[illegible]	1,[illegible]	1,[illegible]		10,902		1		13		
Piatt	3,[illegible]	5,[illegible]	5,[illegible]	5,[illegible]	131,[illegible]		2			22		
Pike	4,[illegible]	4,[illegible]	4,[illegible]	4,[illegible]		62,[illegible]		1		14		
Pope	1,115,[illegible]	[illegible]	[illegible]	[illegible]	[illegible]					3		
Pulaski	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]		4					
Putnam	1,[illegible]	1,[illegible]	1,[illegible]	1,[illegible]	[illegible]		1		2			
Randolph	3,[illegible]	2,[illegible]	2,[illegible]	2,[illegible]	[illegible]		2			3		
Richland	1,[illegible]	1,[illegible]	1,[illegible]	1,[illegible]	[illegible]		7			16		
Rock Island	7,[illegible]	7,[illegible]	7,[illegible]	7,[illegible]	[illegible]					15		
Saline	1,[illegible]	2,[illegible]	1,[illegible]	1,[illegible]	[illegible]					18		
Sangamon	16,[illegible]	14,[illegible]	14,[illegible]	15,[illegible]	[illegible]		2			11		
Schuyler	2,[illegible]	2,[illegible]	2,[illegible]	2,[illegible]	[illegible]		2			14		
Scott	1,[illegible]	1,[illegible]	1,[illegible]	1,[illegible]	[illegible]		1			14		
Shelby	3,[illegible]	4,[illegible]	4,[illegible]	4,[illegible]	[illegible]		5			16		
Stark	3,[illegible]	3,[illegible]	3,[illegible]	3,[illegible]	[illegible]		1			8		
St. Clair	13,[illegible]	12,[illegible]	12,[illegible]	13,[illegible]	[illegible]		1			22		
Stephenson	8,[illegible]	7,[illegible]	8,[illegible]	8,[illegible]	[illegible]		2			13		
Tazewell	6,[illegible]	6,[illegible]	6,[illegible]	6,[illegible]	[illegible]		1			13		
Union	1,[illegible]	1,[illegible]	1,[illegible]	1,[illegible]	[illegible]		1			18		
Vermilion	10,[illegible]	11,[illegible]	11,[illegible]	11,[illegible]	[illegible]		2			23		
Wabash	1,[illegible]	1,[illegible]	1,[illegible]	1,[illegible]	[illegible]		1			17		
Warren	5,[illegible]	5,[illegible]	5,[illegible]	5,[illegible]	[illegible]					16		
Washington	2,[illegible]	2,[illegible]	2,[illegible]	2,[illegible]	[illegible]		1			4		
Wayne	1,[illegible]	1,[illegible]	1,[illegible]	1,[illegible]	[illegible]		4					
White	1,[illegible]	1,[illegible]	1,[illegible]	2,[illegible]	[illegible]		2			2		
Whiteside	7,[illegible]	7,[illegible]	7,[illegible]	7,[illegible]	[illegible]					12		
Will	11,[illegible]	12,[illegible]	13,[illegible]	14,[illegible]	[illegible]					16		
Williamson	1,[illegible]	1,[illegible]	1,[illegible]	1,[illegible]	[illegible]		4			9		
Winnebago	12,[illegible]	10,[illegible]	10,[illegible]	10,[illegible]	[illegible]		1			17		
Woodford	5,[illegible]	5,[illegible]	5,[illegible]	5,[illegible]	[illegible]		2			19		
Total	$[illegible]	$[illegible]	$[illegible]	$[illegible]	$14,579,[illegible]	$2,236,[illegible]						

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for the years 1898, 1899, 1900 and 1901, inclusive, together
ament for the years 1898 and 1901, respectively.

Average rate per cent of equalization by State Board of assessment of 1901.		Per cent of increase of 1901 over 1898.	Per cent of decrease of 1901 over 1898.	Average rate per cent of equalization by State Board of assessment of 1898.		Counties.
Add.	Ded.			Add.	Ded.	
			14			27 Adams
2			21			5 Alexander
27			30			2 Bond
	1	22				8 Boone
13			17			Brown
1		2				16 Bureau
			28			Calhoun
		4				1 Carroll
	2	2				8 Cass
	9	207				16 Champaign
		4				12 Christian
9		20			10	Clark
	2	2				15 Clay
6			16			8 Clinton
	1	9				19 Coles
		102			29	Cook
	4	28			2	Crawford
13		10			17	Cumberland
1		5				10 DeKalb
2		19				7 DeWitt
2		11				11 Douglas
	5	17				4 DuPage
		14			2	Edgar
	1		15			22 Edwards
		2			7	Effingham
11		2			6	Fayette
	2	69				6 Ford
14		13			18	Franklin
	2					3 Fulton
7		40			45	Gallatin
			17			2 Greene
	5	35				1 Grundy
22			10		13	Hamilton
			5			7 Hancock
24			16			9 Hardin
		5				Henderson
1			13			21 Henry
	15	19				20 Iroquois
16			11		18	Jackson
	28	11				Jasper
	2	43			15	Jefferson
12			22			2 Jersey
	5	58				15 JoDaviess
11			43			13 Johnson
1			1			11 Kane
15		21				Kankakee
	4		4			12 Kendall
		2				2 Knox
7		1				11 Lake
	3	1				19 LaSalle
		23			17	Lawrence
	1	19				17 Lee
	2	16				2 Livingston
2			6			9 Logan
1	4	2				13 Macon
1			9			1 Macoupin
1			5			9 Madison
2			21			3 Marion
		2				14 Marshall
	1	7				5 Mason
	1		4			1 Massac
			46			McDonough
	2	16				9 McHenry
	2	13				8 McLean
	1		15			16 Menard
2		3				1 Mercer
	2		21			Monroe
			18		1	Montgomery
			7			15 Morgan
		28			2	Moultrie
		5				2 Ogle
						16 Peoria
2		1	1			7 Perry
	9	34				7 Piatt
	4		9			11 Pike
16			27		6	Pope
3						23 Pulaski
7			23			12 Putnam
5			13			6 Randolph
			2			Richland
		49				17 Rock Island
4		36			1	Saline
2			4			15 Sangamon
			1			Schuyler
	4		14			Scott
7			13			8 Shelby
	5		2			10 Stark
3			3			6 St. Clair
2			26			25 Stephenson
	1	1				9 Tazewell
			4			Union
1		9				16 Vermilion
	7	7				20 Wabash
		6				Warren
17			23			7 Washington
25		7			21	Wayne
12		4			26	White
2						19 Whiteside
		52				5 Will
15		7				Williamson
	5		15			31 Winnebago
	4		2			Woodford

Statement—Concluded.

Counties	1898.	1899.	1900.	1901.
Pope	$ 1,157,962	$ 950,446	$ 772,741	$ 943,647
Pulaski	818,158	935,717	1,097,580	965,814
Putnam	1,282,760	1,209,897	1,104,587	1,177,286
Randolph	3,343,752	3,512,601	2,914,627	2,967,084
Richland	1,821,403	1,638,727	1,452,289	1,598,191
Rock Island	6,827,268	7,817,445	7,349,160	7,652,616
Saline	1,433,524	1,711,360	1,522,877	1,492,656
Sangamon	15,295,845	16,535,496	14,372,301	15,709,639
Schuyler	2,559,437	2,582,537	2,190,586	2,379,890
Scott	2,407,587	2,095,254	1,760,432	1,848,150
Shelby	5,706,545	5,553,436	5,007,210	4,973,114
Stark	3,183,796	3,104,873	2,730,855	2,890,247
St. Clair	15,501,542	16,070,620	13,530,065	13,671,502
Stevenson	7,439,120	7,861,400	6,755,816	7,296,912
Tazewell	7,244,508	7,916,412	6,864,486	6,548,210
Union	2,018,209	2,110,545	1,698,540	1,789,536
Vermilion	11,227,704	12,474,842	10,549,981	11,905,982
Wabash	1,226,335	1,507,672	1,345,125	1,100,687
Warren	6,278,543	6,402,071	5,750,315	5,971,548
Washington	2,951,517	2,795,556	2,288,205	2,529,804
Wayne	2,253,257	2,378,628	2,112,801	2,168,244
White	2,208,654	2,709,330	2,311,978	2,236,022
Whiteside	6,770,875	8,288,536	7,486,871	7,682,769
Will	12,908,891	14,589,914	12,051,334	14,201,641
Williamson	2,620,186	2,630,872	1,898,540	2,127,325
Winnebago	10,447,576	11,420,965	9,670,904	10,354,676
Woodford	6,523,056	5,969,397	5,187,920	5,716,169
Totals	$778,474,916	$863,009,468	$769,703,403	$801,448,546

STATEMENT *Showing the Assessed Value of Railroad Property in each County in the State of Illinois for the Year A. D. 1901.*

COUNTY—RAILROAD.	MAIN TRACK, INCLUDING RIGHT OF WAY AND IMPROVEMENTS THEREON.				SECOND MAIN TRACK			SIDE OR TURNOUT TRACK.			ROLLING STOCK.	Total assessment by the State Board of Equalization	Equalized value of railroad property assessed by local assessors	Equalized value of railroad property in county
	Miles	Feet	Assess'd value exclud-ing build-ings.	Value of build-ings on right of way.	Miles	Feet	Assess'd value.	Miles	Feet	Assess'd value.	Assess'd value.			
ADAMS:														
Chicago, Burlington & Quincy	75	4,610	$432,477	$24,732				23	575	$57,772	$86,873	$601,855	$3,996	$605,850
Omaha, Kansas City & Eastern				8,400					5,204	29,568		37,968	200	38,168
same (C., B. & Q.)	1	4,330									1,891	1,891		1,891
Wabash	21	646	95,051	2,273				1	5,235	4,979	33,341	135,644	3,485	139,129
same (C., B. & Q.)	14	2,640									22,888	22,888	295	23,183
Total	113	1,666	$527,528	$35,406				26	454	$92,319	$144,993	$800,246	$7,975	$808,221
ALEXANDER:														
Chi., Paducah & Memphis (E. I. & M.)	17	1,784									8,227	8,227		8,227
Cairo, Vincennes & Chicago	6	2,651	17,555	3,923				12	2,812	25,065	5,230	51,773		51,773
Chicago & Texas	11	331	24,338	2,609				7	3,738	13,104	4,303	44,354		44,354
Eastern Illinois & Missouri	17	1,784	60,683	5,481				5	3,618	8,528		74,692		74,692
Mobile & Ohio	27	1,775	106,611	2,760				17	4,942	35,872	37,198	182,431		182,431
Total	79	3,045	$209,187	$14,763				43	4,550	$82,569	$54,958	$361,477		$361,477
BOND:														
Chicago, Greenville & Southern	3	3,915	9,354						2,100	796		10,150	10	10,160
Jacksonville & St. Louis	27	1,979	68,437	760				2	1,914	4,725	12,245	86,167	60	86,227
same (C. G. & S.)	4	152									1,902	1,902		1,902
Terre Haute & Indianapolis	22	1,460	122,521	2,968				7	1,485	18,203	64,540	208,232	1,524	209,756
Toledo, St. Louis & Western	8	1,690	29,120	440				1	1,050	2,398	11,646	43,604	40	43,644
Total	65	3,916	$229,432	$4,168				11	1,269	$26,122	$90,233	$349,955	$1,634	$351,589

NAME OF COMPANY	LENGTH OF MAIN TRACK IN ILLINOIS.		ASSESSMENT OF MAIN TRACK.		LENGTH OF SECOND MAIN TRACK.		ASSESSMENT OF SECOND MAIN TRACK.		LENGTH OF SIDE OR T... TRACK.	
	Miles.	Feet.	Per mile.	Per foot.	Miles.	Feet.	Per mile.	Per foot.	Miles.	Fe...
... Toledo & Vincennes	20	4,487	$ 5,000	$ 1.2500	1	2,120	$ 1,000	$ .3030	131	
... Chicago & Chicago		4,521	5,000	1.7043	2	4,200	4,000	.7576	21	
... Ohio Connecting	2	341	9,000	1.7043	2	341	4,000	.7576		
... Ohio Southwestern	172	372	5,000	.9470						
... Cumberland	70	2,378	5,000	1.7043					39	
... Company of Chicago	25	3,132	15,000	2.8405	14	2,208	6,000	.7576	3	
...	5	1,321	4,000	.7576					13	
... & Chicago	250	302	2,500	.4735					1	
...	4	2,312	6,000	1.1368					61	
... Toledo	3	2,181	5,000	.9470					1	
... & Ohio	69	246	6,000	1.1368	128	2,351	3,000	.5682		
... Chicago & Northern	54	4,330	5,000	.9470			2,500	.4735	101	
... Chicago & Quincy	90	2,206	5,500	1.0417	103	893	1,500	.2841	17	
... Central Peninsular	26	3,000	3,000	.5682	14	2,471	1,000	.1894	10	
... Eastern Illinois	174	2,055	4,500	.8523	106	336	3,000	.5682	149	
...										
... Wabash	189	4,561	5,000	.9470					41	
... Chicago & Northwestern	1	113	5,000	.9470						
... Chicago & Western	112	1,258	4,000	.7576					14	
... Chicago & Quincy		2,108	6,000	1.1368						
... Chicago & Louisville										
...	191	4,130	4,000	.7576					37	
...	31	4,000	4,000	.7576					19	
... Illinois & Eastern	4	4,048	20,000	3.7879						
... Chicago & Northern	219	1,203	5,000	.9470	6	4,376	2,000	.3788	81	
... Chicago & Paducah	240	2,145	4,000	.7576	108	2,208	2,000	.3788	211	
... Chicago & Paducah	60	3,441	5,000	.9470	149	1,295	2,000	.3788	243	
... Chicago & Memphis		1,485	2,500	.4735					34	
... Chicago & Paducah		1,485	2,500	.4735					34	
... & Illinois & Paducah		1,485	2,500	.4735					34	
... & Chicago	164	2,158	7,500	1.4205	145	707	3,000	.5682	244	
... Chicago	24	2,209	4,000	.7576					26	
... & Chicago	11	4,000	24,000	4.5455	30	130	12,000	2.2727	34	
... & Chicago	2	3,100	2,500	.4735					10	
... & Chicago										
... & Western Indiana	79	1,986	10,000	1.8939	25	4,186	3,000	.5682	68	
... Fort Dearborn & Northern									1	
... Lafayette & Chicago	32	3,163	4,500	.8523					2	
... Cincinnati, Chicago & St. Louis	146	34	4,000	.7576					62	
... Cincinnati & Kansas City	1	1,161	1,000	.1894					28	
... Chicago & Northwestern	1	1,161	1,000	.1894						
... Chicago Western	1	4,230	2,000	.3788						
... & Interstate	1	1,372	2,000	.3788					2	
... & Kennebec	1	1,372	2,000	.3788						
... & Cincinnati		1,372	2,000	.3788						
... & Cincinnati		1,372	2,000	.3788						
... & Chicago		1,372	2,000	.3788					14	
...		1,372	2,000	.3788						
... Illinois Indiana (Branch Michigan Central)	2	4,313	4,000	.7576	1	700	2,000	.3788	11	
... & Carolina	117	113	4,000	.7576					137	
... Central Group	1	1,161	1,000	.1894					1	
... & Chicago	14	1,484	250	.0473					2	
... & Chicago	11	3,000	1,000	.1894						
... & Chicago	11	3,000	1,000	.1894						
... Chicago & Western	35	4,425	17,000	3.2197	19	2,321	4,000	.7576	34	
... & Chicago & Litchfield Div.	14		2,500	.4735					1	
... & Chicago	31	2,653

STATEMENT Showing the Assessed Value of Railroad Property in each County in the State of Illinois for

...wing the Assessment of Railroad Property by the State Board of Equalization for the year A. D. 1905.

County	Length of Side or Tunnel Track		Assessment of Side or Tunnel Track		Assessment of Rolling Stock per Foot of Main Track	Aggregate Assessment by the State Board of Equalization												Equalized Value of Railroad Property Assessed by Local Assessors	Average Railroad Property	Total Assessment per Mile
						Main Track		Second Main Track		Side or Tunnel Track		Buildings on Right of Way		Rolling Stock		Total				
	Miles.	Feet.	Per mile.	Per foot.		Full Value.	Assessed Value.	Full Value.	Assessed Value.	Full Value.	Assessed Value.	Full Value.	Assessed Value.	Full Value.	Assessed Value.	Full Value.	Assessed Value.			
Adams	153	562	$ 2,500	$0.47348	$0.20000	$ 5,629,130	$ 1,685,522	$ 104,560	$ 26,412	$ 1,980,486	$437,579	$ 276,190	$ 111,218	$ 1,650,000	$ 619,800	$12,640,366	$ 3,880,531	$27,961,963	$ 22,741,896	$ 5,760
Alexander	23	4,075	2,500	47348	.09400	299,300	53,219	117,200	23,476	772,745	54,529	62,305	12,470	105,262	41,799	921,994	145,152	4,796,000	199,583	32,138
Bond						45,919	19,002	44,560	8,712							90,479	27,714	2,284,000	76,014	12,170
Boone	39	2,762	2,500	.47348	.04110	5,561,300	1,216,762			1,394,205	286,950	193,725	27,741	6,221,415	894,282	11,364,645	2,425,733	40,965,000	2,279,772	6,115
Brown	2	4,176	1,500	.28407		208,460	61,708			35,000	4,644	5,975	1,195	54,250	16,140	304,685	83,687		41,843	6,115
Bureau	55	5,132	2,500	.47348	1.10713	1,544,500	308,974	205,670	58,574	696,623	140,306	39,700	4,150	618,100	116,730	3,296,190	627,733		62,647	5,624
Calhoun	1	4,760	2,500	.47348		76,973	15,295			23,915	4,758	29,150	2,920			130,038	23,173	15,000	692,867	21,434
Carroll	69	3,399	2,500	.47979	.15214	2,094,399	546,972			696,413	99,293	127,000	21,979	1,088,000	207,300	3,911,868	874,172	42,950	24,172	5,500
Cass	3	581	2,500	.47348		123,135	26,617			15,700	1,731	250	50			172,141	33,129	796	33,224	5,897
Champaign	207	4,947	2,500	.47361	.44000	10,004,100	3,016,546	50,000	10,121	1,040,220	316,942	409,920	79,954	7,568,925	1,309,785	19,073,165	4,733,348	74,000	22,977	2,990
Christian	47	4,264	2,500	.47348	.04110	2,598,400	873,748	1,449,780	299,947	1,744,520	41,503	41,715	8,203	260,100	158,598	6,093,515	1,382,000	217,000	28,723	4,620
Clark	662	4,529	2,500	.47348	.03653	4,186,505	1,396,179	2,762,270	548,434	1,045,205	1,004,669	852,916	170,598	5,450,705	1,052,150	24,297,845	5,017,901	194,125	7,577	1,196
Clay	16	4,928	2,500	.47348	.04110	1,164,160	182,926	246,200	57,422	284,470	45,980	63,855	11,965	332,250	61,454	2,090,515	359,747	174,145	8,111,804	1,281,000
Clinton	149	2,609	2,500	.47979	.14925	1,911,745	1,135,145	1,591,185	315,140	1,436,975	267,774	250,520	50,443	2,042,625	796,624	7,233,050	2,564,126	78,455	8,598,511	1,357,612
Coles														2,042,625	796,624	72,561,680	2,564,126	78,455	8,598,511	1,357,612
Cook	41	191	2,500	.47366		3,741,991	748,156			521,956	102,630	145,200	28,600	1,421,036	265,306	5,754,453	1,144,692	5,000	4,596	911
Crawford	2	2,100	2,000	.37873		43,770	9,374			3,990	796					47,760	10,170	1,000	41,572	7,385
Cumberland	23	2,992	2,000	.37873	.04110	1,422,386	264,417			126,460	27,050	55,220	11,440	217,385	43,440	1,821,450	346,347	1,000	15,060	2,651
DeKalb		500	2,500	.47366		8,467	1,967			1,140	237					9,607	2,204	1,000	1,965,574	4,379
DeWitt	20	4,879	2,500	.47369	.14925	3,585,270	507,034			201,550	32,110	41,270	6,600	317,500	50,800	4,145,590	596,544	20,000	29,841	4,650
Douglas	19	4,406	2,500	.36018	.14925	3,585,270	507,034	234,315	43,760	201,550	32,110	41,270	6,600	317,500	50,800	4,145,590	596,544	20,000	29,841	4,650
Du Page	10	1,132	2,500	.36018	.04110	176,262	35,265	23,450	5,290	8,705	1,741	1,000	200	179,150	37,552	388,567	79,448	1,000	79,448	12,383
Edgar	50	4,500	2,500	.47348	.04110	1,406,760	306,000	31,000	11,625	743,310	148,662	125,400	25,080	1,040,000	416,000	3,346,470	907,367	1,000	18,147	2,829
Edwards	411	1,120	2,500	.47348	.04110	2,466,750	617,687	1,471,740	294,348	2,045,300	409,060	225,400	45,080	247,500	49,500	6,456,690	1,415,675	1,000	1,415,675	220,619
Effingham	343	1,952	2,500	.47348	.04110	4,177,560	2,504,536	2,504,536	500,907	1,251,615	250,323	250,323	50,065	1,251,615	500,646	9,435,649	3,756,477	1,000	3,756,477	585,400
Fayette	27	950	2,500	.47979	.04110	1,424,945	244,967	1,424,945	244,967	1,424,945	244,967	1,424,945	244,967	1,424,945	244,967	7,124,725	1,224,835	1,000	1,224,835	190,800
Ford	51	506	2,500	.47979	.04110	2,451,245	393,063			111,150	17,820	111,150	17,820	111,150	17,820	2,784,695	446,523	1,000	446,523	69,600
Franklin	144	3,546	2,500	.47348	.04110	5,240,227	1,205,252	2,617,710	602,073	1,310,927	301,513	1,310,927	301,513	1,310,927	301,513	11,790,718	2,711,864	1,000	2,711,864	422,400
Fulton	26	973	2,500	.47348	.04110	1,736,297	1,736,297	2,317,710	531,073	1,158,855	265,536	1,158,855	265,536	1,158,855	265,536	7,530,572	3,064,033	1,000	3,064,033	477,400
Gallatin	16	1,925	2,500	.47348	.04110	1,472,215	340,264	500,125	115,210	714,000	164,312	714,000	164,312	714,000	164,312	4,114,340	948,410	1,000	948,410	147,800
Greene	19	4,926	2,500	.47348	.04110	1,472,215	340,264	500,125	115,210	714,000	164,312	714,000	164,312	714,000	164,312	4,114,340	948,410	1,000	948,410	147,800
Grundy						621,600	164,256			140,440	32,300	56,175	12,920	140,440	32,300	958,655	241,776	1,000	241,776	37,600
Hamilton	68	3,156	2,000	.36018	.04110	4,015,960	905,159	905,159	103,466	1,406,271	269,141	1,128,751	215,992	1,128,751	215,992	8,584,892	1,709,750	1,000	1,709,750	266,000
Hancock	1	2,807	2,500	.47348						50,250	9,614					50,250	9,614	1,000	9,614	1,496
Hardin	23	3,912	2,500	.47348		741,500	128,451			395,760	75,754	11,000	2,104	11,000	2,104	1,159,260	208,413	1,000	208,413	32,400
Henderson	75	1,952	2,500	.47348	.04110	4,840,110	899,102			91,245	17,449	121,660	23,264	3,414,150	653,054	8,467,165	1,592,869	20,000	1,592,869	247,800
Henry	3	1,159	2,500	.47348	.04110	150,000	28,677			1,000	191			1,000	191	152,000	29,059		29,059	4,520
Iroquois	5	2,995	2,500	.47348	.12875	250,505	47,915			59,810	11,440	74,760	14,300	1,000	191	386,075	73,846		73,846	11,490
Jackson	2	1,277	1,000	.18962		69,000	13,201			11,310	2,162	6,000	1,147			86,310	16,510		16,510	2,568
Jasper		1,050	1,000	.18962		11,000	2,104			11,310	2,162	6,000	1,147			28,310	5,413		5,413	842
Jefferson	14	4,722	2,500	.47348	.04127	21,170	4,048			1,000	191			1,000	191	23,170	4,430		4,430	689
Jersey	9	1,722	2,500	.47348		1,104,470	223,974			111,510	21,320			1,000	191	1,216,980	245,485		245,485	38,200
Jo Daviess	5	2,205	2,500	.47348		1,104,470	223,974			111,510	21,320			1,000	191	1,216,980	245,485		245,485	38,200
Johnson	21	445	15,500	2.93743	1.15000	114,000	22,000	95,720	17,314	1,045,570	199,914			125,000	23,900	1,380,290	263,128		263,128	40,900
Kane	71	4,503	2,500	.47348		1,104,470	223,974			111,510	21,320			1,000	191	1,216,980	245,485		245,485	38,200
Kankakee	151	4,831	2,500	.47348	.14925	3,588,800	681,872			1,427,210	272,677	164,400	31,416	1,005,345	192,165	6,185,755	1,178,130		1,178,130	183,200
Kendall	2	358	2,500	.47348		117,000	22,374			15,000	2,868	5,000	956			137,000	26,198		26,198	4,074
Knox	1	106	2,500	.47348	.04126	181,000	34,600			1,000	191	1,000	191	1,000	191	184,000	35,173		35,173	5,470
Lake	3	2,790	2,500	.47348		2,000	382			1,000	191	1,000	191	1,000	191	5,000	955		955	148
La Salle	1	581	2,500	.47348		211,000	40,337			14,520	2,776	740	141			226,260	43,254		43,254	6,727
Lawrence	14	4,722	2,500	.47348	.04127	2,500,000	478,000	370,400	81,000	420,000	80,304	120,000	22,944	120,000	22,944	3,530,400	675,192		675,192	105,000
Lee	3	1,322	2,500	.47348		1,126,000	215,324			53,500	10,228	21,000	4,015	21,000	4,015	1,221,500	233,582		233,582	36,300
Livingston	12	4,941	2,500	.47348		2,000,000	382,400			13,000	2,485	5,000	956	5,000	956	2,023,000	386,797		386,797	60,100
Logan	12	2,754	1,000	.18962		624,715	94,249			13,000	2,485	5,000	956	5,000	956	647,715	98,646		98,646	15,300
Macon		3,350	2,500	.47348	.04127	2,500,000	478,000			13,000	2,485	5,000	956	5,000	956	2,523,000	482,397		482,397	74,900
Macoupin	12	3,350	2,500	.47348		252,370	48,264			1,000	191	1,000	191	1,000	191	255,370	48,837		48,837	7,585
Madison	19	1,361	2,500	.47348		874,000	167,145			159,170	30,434	15,000	2,868			1,048,170	200,447		200,447	31,100
Marion	10	1,361	2,500	.47348		874,000	1,4 805			157,665	30,144	15,000	2,868	724,490	138,544	2,771,155	529,961		529,961	82,300
Marshall	7	1,941	1,500	.28407		55,000	15,627			55,120	15,665	6,000	1,705	55,000	15,630	171,120	48,627		48,627	7,550
Mason	54	2,752	2,500	.47348		1,774,000	339,200			584,500	111,760	171,270	32,749	838,000	160,210	3,367,770	643,919		643,919	100,000
Massac	25	4,681	2,000	.37873		1,221,100	264,200			200,000	38,240	30,000	5,736	150,000	28,680	1,601,100	306,056	14,000	306,056	47,500
McDonough	13	4,951	2,000	.37873		1,104,000	209,000			100,000	19,115	50,000	9,558	100,000	19,115	1,354,000	256,488		256,488	39,800
McHenry	8	2,344	2,500	.47348	.08872	1,104,000	209,000			143,675	27,472	36,465	6,971	180,000	34,416	1,464,140	277,859		277,859	43,100
McLean	5	1,966	2,500	.47348		1,104,000	209,000	53,000	10,129	63,000	12,043	20,000	3,823			1,240,000	234,995		234,995	36,400
Menard	5	1,966	2,500	.47979		535,000	105,140			53,735	10,748	20,000	4,000			608,735	119,888		119,888	18,600
Mercer	22	4,205	2,500	.47348	.17304	1,104,000	209,000			135,000	25,800	170,000	32,500	440,000	84,000	1,849,000	351,300	5,000	351,300	54,500
Monroe	62	3,500	2,500	.47348	.04110	2,000,000	478,000			245,000	46,834	187,000	35,738	1,000,000	191,000	3,432,000	751,572	1,000	751,572	116,600
Montgomery		3,127	2,500	.47348	.04127	2,000,000	478,000	132,195	25,256	574,765	109,842	174,447	33,335	741,910	141,760	3,623,317	788,193	2,000	788,193	122,300
Morgan	3	4,054	2,500	.47348		1,104,000	209,000			5,000	956	1,000	191	5,000	956	1,115,000	211,103		211,103	32,700
Moultrie	5	2,722	2,500	.47979	.07825	1,104,000	209,000			5,000	956	1,000	191	5,000	956	1,115,000	211,103		211,103	32,700
Ogle	5	5,123	1,000	.18962		1,104,000	209,000			402,250	76,844	139,560	26,664	1,137,900	217,440	3,183,710	608,148	14,000	608,148	94,300
Peoria	45	4,903	2,000	.37873	.04110	1,104,000	209,000			169,225	32,344	55,000	10,510	440,000	84,000	1,868,225	355,854	1,000	355,854	55,100
Perry	15	2,994	2,000	.37873		1,104,000	209,000	128,185	24,270	513,605	97,231	242,500	45,907	1,000,000	189,300	2,988,290	565,708	1,000	565,708	87,700
Piatt	6	4,227	2,000	.37873		1,104,000	209,000			75,450	14,284	150,000	28,400	1,000,000	189,300	2,329,450	440,984	1,000	440,984	68,300
Pike	21	211	2,500	.47348		1,104,000	209,000			113,000	21,390	50,000	9,465	100,000	18,930	1,367,000	258,785	1,000	258,785	40,100
Pope	24	2,597	2,500	.47348		1,104,000	209,000			313,000	59,262	50,000	9,465	100,000	18,930	1,567,000	296,657	2,304	296,657	46,000
Pulaski						1,104,000	209,000			220,110	41,682	50,000	9,465	100,000	18,930	1,474,110	279,077	10	279,077	43,200
Putnam		3,204	31,000	5.84942	2.00171	1,104,000	209,000	414,005	124,801	117,660	22,268	195,100	36,930	515,500	102,100	2,346,265	495,099		495,099	76,700
Randolph		2,980	500	.09472	.03243					39,360	7,450	42,500	8,045	1,000	191	82,860	15,686		15,686	2,430
Richland	21	3,509	2,000	.37873	.13000	47,000	8,900			7,080	1,340	2,500	473	1,000	191	57,580	10,904		10,904	1,689
Rock Island	51	741	2,500	.47348	.04110	1,432,447	490,940			116,740	22,103	18,000	3,408	523,750	174,000	2,090,937	690,451	1,000	690,451	106,900
St. Clair	3	2,451	2,500	.47348		1,104,000	209,000			112,220	21,246	50,000	9,465	100,000	18,930	1,366,220	258,641	1,000	258,641	40,000
Saline	51	4,314	2,500	.47348	.04110	1,104,000	209,000			5,000	956	1,000	191	5,000	956	1,115,000	211,103		211,103	32,700
Sangamon	73	1,344	2,500	.47348	.04110	1,104,000	209,000			5,000	956	1,000	191	5,000	956	1,115,000	211,103		211,103	32,700
Schuyler	15	4,818	2,000	.37873	.04110	1,104,000	209,000			5,000	956	1,000	191	5,000	956	1,115,000	211,103		211,103	32,700
Scott	6	63	1,000	.18962		1,104,000	209,000			5,000	956	1,000	191	5,000	956	1,115,000	211,103		211,103	32,700
Shelby	23	1,440	2,500	.47348		1,104,000	209,000			5,000	956	1,000	191	5,000	956	1,115,000	211,103		211,103	32,700
Stark	6	4,944	2,500	.47348		1,104,000	209,000			5,000	956	1,000	191	5,000	956	1,115,000	211,103		211,103	32,700
Stephenson		1,259	2,000	.37873		1,104,000	209,000			5,000	956	1,000	191	5,000	956	1,115,000	211,103		211,103	32,700
Tazewell	2	4,223	2,000	.37873		1,104,000	209,000	105,525	20,065	5,000	956	1,000	191	5,000	956	1,220,525	231,168	1,000	231,168	35,800
Union	2	1,320	2,000	.37873		1,104,000	209,000	24,700	4,676	5,000	956	1,000	191	5,000	956	1,139,700	215,779	1,000	215,779	33,400
Vermilion	65	3,172	2,500	.47348	.14925	1,104,000	209,000	100,500	20,041	5,000	956	1,000	191	5,000	956	1,215,500	231,144	1,000	231,144	35,800
Wabash		4,959	2,500	.47348	.04110	1,104,000	209,000			5,000	956	1,000	191	5,000	956	1,115,000	211,103		211,103	32,700
Warren	3	4,959	2,500	.47348	.04110	1,104,000	209,000			5,000	956	1,000	191	5,000	956	1,115,000	211,103		211,103	32,700
Washington		959	2,500	.47348		1,104,000	209,000			5,000	956	1,000	191	5,000	956	1,115,000	211,103		211,103	32,700
Wayne	6	4,523	2,500	.47348		1,104,000	209,000	96,000	18,278	5,000	956	1,000	191	5,000	956	1,211,000	229,381		229,381	35,500
White	6	4,523	2,500	.47348		1,104,000	209,000	96,000	18,278	5,000	956	1,000	191	5,000	956	1,211,000	229,381		229,381	35,500
Whiteside	4	4,163	2,500	.47348		1,104,000	209,000	96,000	18,278	5,000	956	1,000	191	5,000	956	1,211,000	229,381		229,381	35,500
Will	1	3,973	4,000	.75794	.20000	2,714,675	627,405	477,000	90,630	52,000	9,938	1,000	191	1,000,000	189,300	4,244,675	917,464	1,000	917,464	142,000
Williamson		1,319	2,500	.47348		3,411,640	647,208	425,450	80,760	11,000	2,090	56,500	10,735	1,000,000	189,300	4,904,590	929,893	1,000	929,893	144,000
Winnebago		4,104	1,500	.28407		275,000	78,082	195,000	37,022	1,000	191	1,000	191	1,000	191	473,000	115,677		115,677	17,900
Woodford	2	4,707	2,500	.47348		64,000	12,160			5,000	956	1,000	191	5,000	956	75,000	14,263	1,000	14,263	2,200
Chicago	18	2,301	2,500	.47348		990,175	188,133	209,450	41,602	31,810	6,262	43,200	8,500	1,000	191	1,275,635	244,688		244,688	37,900
Chicago	14	4,262	1,500	1.42045	1.05500	1,107,885	1,573,527			564,330	801,349	113,900	161,758	1,000	1,420	1,787,115	2,538,054		2,538,054	392,900
Chicago	64	4,902	1,500	.83388		4,294,610	3,581,407			915,500	763,375	153,000	127,551	177,000	25,110	5,540,110	4,617,443	4,500	4,617,443	714,800
Chicago	17	4,645	1,500	.28407		1,741,443	494,776			124,000	35,227	21,500	6,109	1,000,000	284,070	2,886,943	820,182		820,182	126,900
Chicago	6	2,123	1,500	1.42045	1.05500	5,599,005	7,951,588	1,591,185	2,260,483	743,405	1,055,833	148,734	211,253	1,000,000	1,420,450	9,082,329	12,899,607		12,899,607	1,997,000
Chicago	25	546	2,000	.37873		4,152,745	837,141			891,000	179,643	240,000	48,384	524,530	105,747	5,808,275	1,170,915		1,170,915	181,200
Chicago	29	2,747	2,000	.37873		3,141,000	633,233			295,240	59,521	71,200	14,355	1,000,000	201,600	4,507,440	908,709	2,000	908,709	140,600
Chicago	8	2,685	1,500	.28407		1,104,000	313,693			24,000	6,818	4,000	1,136	1,000,000	284,070	2,133,000	605,717		605,717	93,700
						48,875	4,000									48,875	4,000		4,000	619
						47,445	9,570									47,445	9,570	500	9,570	1,481
Unknown	104	2,251	2,000	.37873		2,072,751	410,551	111,450	22,393							2,184,201	432,944		432,944	67,000
	6	4,785	1,500	.28407		1,130,000	320,991	121,500	45,676	1,419,000	268,995	160,500	30,410			2,831,000	666,072		666,072	103,000
						50,000	14,203			50,000	10,407	10,000	2,841			110,000	27,451		27,451	4,250
	27	4,895	2,500	.47348	.08546	1,104,000	209,000			180,000	34,200	50,000	9,465	100,000	18,930	1,434,000	271,595	1,000	271,595	42,000
	109	3,547	2,500	.47348	.04110	2,804,000	531,000			2,804,000	531,000	1,000,000	189,300	1,000,000	189,300	7,608,000	1,440,600	5,000	1,440,600	222,800
		1,980	2,500	.47348	.04401	93,500	17,707			3,500	663	745	141	1,000	191	98,745	18,702	1,000	18,702	2,892
	4,178	4,351				$245,145,930	$52,670,745	$22,196,250	$4,439,250	$35,797,965	$6,959,497	$10,005,405	$1,940,560	$2,350	$445,000	$315,147,900	$66,455,052	$1,000,000	$66,455,052	$10,274,726

Assessment of Railroad Property in each County in the State of Illinois for

BOONE:															
Chicago, Madison & Northern	6	1,275	$ 31,207	$ 621					4,038	$ 1,912	$ 2,203	$ 35,943	$ 5	$ 35,948
Chicago & Northwestern	37	3,229	212,505	2,467				17	2,788	43,820	59,016	317,808	2,551	320,359
same (Northern Illinois)	7	4,141									12,214	12,214		12,214
Northern Illinois	7	4,141	19,461	161					3,295	1,248		20,870	10	20,880
Total	59	2,226	$263,173	$3,249				18	4,841	$46,980	$73,433	$386,835	$2,566	$389,401
BROWN:															
Wabash	23	3,370	106,372	1,811				1	4,991	4,863	37,312	150,358	122	150,480
BUREAU:															
Chicago, Burlington & Quincy	72	4,260	414,999	3,579	40	3,337	$109,706	17	1,839	43,371	83,362	655,017	857	655,874
same (I. V. & N.)	30	546									34,468	34,468	226	34,694
Illinois Valley & Northern	30	546	90,310	1,498				5	177	12,584		104,392		104,392
Chicago & Northwestern (Nor. Ill.)	6	215									9,478	9,478	40	9,518
Chicago, Rock Island & Pacific	40	2,786	303,957	5,250	40	2,786	121,583	13	4,544	34,652	46,763	512,205	1,981	514,186
same (Peoria Branch)	4	1,709	32,428					1	778	2,868	4,989	40,285		40,285
DePue, Ladd & Eastern	3	1,780	6,674						2,000	379	40	7,093	30	7,123
Indiana, Illinois & Iowa	5	1,933	17,172	1,344				6	4,350	17,060	5,134	40,710	656	41,366
LaSalle & Bureau County	1	1,715	3,312						1,880	890		4,202		4,202
Northern Illinois	6	215	15,102	1,149				13	4,078	27,545		43,796		43,796
Total	199	5,145	$883,954	$12,820	81	843	$231,289	58	3,806	$139,349	$184,234	$1,451,646	$3,790	$1,455,436
CARROLL:															
Chicago, Burlington & Northern	48	4,285	244,058	5,506				10	5,191	27,458	88,661	365,683	730	366,413
Chicago, Milwaukee & St. Paul	47	462	200,122	15,361	26	1,059	70,741	26	1,099	65,520	48,740	400,484	14,232	414,716
Total	95	4,747	$444,180	$20,867	26	1,059	$70,741	37	1,010	$92,978	$137,401	$766,167	$14,962	$781,129
CASS:															
Baltimore & Ohio Southwestern	25	4,169	77,369	1,180				6	4,573	17,165	58,702	154,416	235	154,651
Chicago & Alton	2	2,248	14,554	352					3,591	1,700	5,758	22,364	10	22,374
St. Louis, Rock Island & Chicago	10	4,507	41,244	12,441				8	1,295	20,613	8,445	82,743	6,275	89,018
Chicago, Peoria & St. Louis	15	453	37,715	888				2	78	4,030	24,116	66,749	30	66,779
Total	54	817	$170,882	$14,861				17	4,287	$43,508	$97,021	$326,272	$6,550	$332,822
CHAMPAIGN:															
Chicago & Eastern Illinois	8	745	32,565	324				1	2,168	2,817	19,073	54,779	73	54,852
Chicago, Havana & Western	12	910	24,345	384				1	3,983	3,168	3,999	31,896	95	31,991
Chicago & Springfield		1,497	850								171	1,021		1,021
Peoria & Eastern	29	648	87,368	14,236				17	2,673	35,012	29,344	165,960	3,260	169,220
Rantoul	28	1,229	50,819	3,790				3	2,640	3,500	1,062	59,171	425	59,596
Wabash	28	2,503	128,133	5,362				6	2,410	16,141	44,945	194,581	500	195,081
same (C. & S. E.)	11	3,617	52,585	1,035				1	4,110	4,446	18,444	76,508	100	76,608
same (C. & P.)	6	1,947	28,659	450				1	2,139	3,513	10,053	42,675	50	42,725
Total	124	2,536	$405,322	$25,581				33	3,373	$68,597	$127,091	$626,591	$4,503	$631,094

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Statement –Continued.

County—Railroad.	Main Track, Including Right of Way and Improvements Thereon.				Second Main Track			Side or Turnout Track.			Rolling Stock.	Total assessment by the State Board of Equalization	Equalized value of railroad property assessed by local assessors	Equalized value of railroad property in county
	Miles	Feet.	Assess'd value exclud-ing build-ings.	Value of build-ings on right of way.	Miles	Feet.	Assess'd value.	Miles	Feet.	Assess'd value.	Assess'd value.			
Christian:														
Baltimore & Ohio Southwestern	30	4,577	$ 92,601	$1,860				6	3,183	$16,507	$ 70,259	$181,247	$1,875	$183,122
Cleveland, Cincinnati, Chicago & St. L.	10	5,153	52,685	508				3	1,239	8,087	25,443	86,723	84	86,807
Wabash	31	163	139,639	3,764				7	2,969	18,906	48,981	211,290	1,370	212,660
Total	72	4,613	$284,925	$6,152				17	2,111	$43,500	$144,683	$479,260	$3,329	$482,589
Clark:														
Cairo, Vincennes & Chicago	20	4,370	56,235	688				2	133	4,050	16,753	77,726	140	77,866
Indiana, Decatur & Western (O. R. D.)	14	4,684	25,308	408				1	1,138	1,823	2,559	30,098	40	30,138
Terre Haute & Indianapolis	29	696	160,225	2,632				8	721	20,342	84,401	267,600	185	267,785
Terre Haute & Peoria		4,157	1,890	200					3,013	856	577	3,523		3,523
same (T. H. & I.)		3,268									454	454		454
Total	66	1,335	$243,658	$3,928				11	5,005	$27,071	$104,744	$379,401	$365	$379,766
Clay:														
Baltimore & Ohio Southwestern	48	3,589	146,039	6,160				12	2,073	30,981	110,804	293,984	392	294,376
Clinton:														
Baltimore & Ohio Southwestern	30	3,169	91,801	2,845				8	135	20,064	69,652	184,362	561	184,923
Illinois Southern	2	3,636	4,839								942	5,781		5,781
Jacksonville & St. Louis	15	2,062	38,475	608					2,261	856	6,884	46,823	50	46,873
Louisville & Nashville	3	4,775	15,227	1,628					3,856	1,460	4,911	23,226	60	23,286
Southern	31	2,263	88,009	1,070				3	2,366	6,896	44,789	140,755	214	140,969
Total	84	63	$238,342	$6,151				12	3,338	$29,276	$127,178	$400,947	$885	$401,832

COLES:															
Cleveland, Cincinnati, Chicago & St. L.	27	4,796	133,960	$8,368				14	3,078	$36,457	$64,695	$243,480	$8,730	$252,210
Indiana, Decatur & Western (O. R. D.).	1	5,037	3,322								336	3,658		3,658
Peoria, Decatur & Mattoon	4	5,180	12,453	75					1,126	426	4,023	16,977	3,803	20,780
same (Mattoon & Evansv. Div.)	11	1,574	28,245	4,630				6	3,569	13,352	9,124	55,351		55,351
Terre Haute & Peoria	5	1,471	12,689	154					3,242	921	3,968	17,612		17,612
Toledo, St. Louis & Western	31	4,699	111,615	3,781				6	1,674	12,634	44,639	172,669		172,669
Total	83	1,637	$302,264	$17,008				28	2,129	$63,790	$126,685	$509,747	$12,533	$522,280
CRAWFORD:														
Cairo, Vincennes & Chicago	24	944	65,283	813				3	4,472	7,694	19,448	93,238	1,625	94,863
Illinois & Indiana	21	315	31,590	1,151				1	3,356	1,635	6,410	40,786	709	41,495
Total	45	1,259	$96,873	$1,964				5	2,548	$9,329	$25,858	$134,024	$2,334	$136,358
CUMBERLAND:														
Indiana, Decatur & Western (O. R. Div.)	7	686	12,121						1,454	413	1,226	13,760		13,760
Peo., Decatur & Mat. (Mat. & Ev. Div.)	17	2,900	43,873	385				1	2,764	3,047	14,172	61,457		61,457
Terre Haute & Indianapolis	20	4,145	114,318	1,064				3	2,239	8,560	60,215	184,160	700	184,860
Toledo, St. Louis & Western	7	3,590	26,879	165				1	346	2,131	10,750	39,925		39,925
Total	53	761	$197,191	$1,594				6	1,523	$14,151	$86,366	$299,302	$700	$300,002
COOK:														
Athison, Topeka & Santa Fé	18	1,109	109,260	50,010	2	3,595	$8,042	43	2,586	108,725	20,094	296,131	252,992	549,123
Baltimore, Ohio & Chicago	5	4,821	53,218	12,661	5	4,588	23,476	21	4,075	54,429	15,331	159,115	4,790	163,905
same (C. R. I. & P.)	6	1,848									16,464	16,464		16,464
same (C. & N. P.)	3	3,696									9,593	9,593		9,593
Baltimore & Ohio Connecting	2	940	19,602		2	940	8,712					28,314	2,000	30,314
Belt Railway Co. of Chicago	20	3,125	308,878	6,150	14	3,398	58,574	55	5,132	139,930	123,700	637,232	15,000	652,232
Blue Island	3	4,461	15,380	4,030				1	4,780	4,763		24,173	10,000	34,173
Calumet River	4	2,312	26,627	50				3	531	7,751		34,428	796	35,224
Calumet Western	3	2,131	17,018		3	1,973	10,121					27,139	5,740	32,879
Chicago & Alton	25	3,233	153,674	30,974	25	3,232	71,714	35	4,870	89,806	60,795	406,963	63,001	469,964
Chicago, Burlington & Quincy	15	468	86,005	33,129	15	468	40,739	127	4,505	319,633	17,276	496,782	312,921	809,703
Chicago & Calumet Terminal	26	3,092	132,928	13,365	14	2,471	57,872	16	1,548	48,880	66,458	319,503	380	319,883
Chicago & Eastern Illinois	11	4,535	47,436	15,422	11	4,611	35,620	40	4,271	81,618	27,782	207,878	3,469	211,347
same (C. & W. I.)	16	5,249									39,811	39,811		39,811
Chicago & Erie (C. & W. I.)	19	3,286									37,591	37,591	4,981	42,572
Chicago Great Western	5	3,021	28,418	1,160				5	199	12,594	8,305	50,477	5,004	55,481
same (C. & N. P.)	10	950									15,173	15,173		15,173
Chicago & Illinois Southern		2,200	1,667						500	237		1,904		1,904
Chicago, Ind. & Louisville (C. & W. I.).	8	4,805									9,200	9,200	20,844	30,044
Chicago Junction	23	1,822	116,726	2,880	16	2,223	49,263	19	3,406	58,935	66,767	294,570	5,561	300,131
same (U. S. Y. & T. Co.)	8	4,033									25,065	25,065		25,065
Chicago, Lake Shore & Eastern	1	4,030	35,265	6,009	1	4,030	5,290		1,192	677	389	47,621	9,192	56,813
same (B. & O. & C.)	1	850									256	256		256
same (C. & E. I.)	1	3,053									348	348		348
same (E. J. & E.)	13	4,195									3,045	3,045		3,045
same (L. S. & M. S.)	3	355									677	677		677
Chicago, Madison & Northern	16	1,155	81,094	2,448	6	578	18,328	18	668	45,316	5,725	152,911	33,899	186,810

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Statement—Continued.

County—Railroad.	Main Track, Including Right of Way and Improvements Thereon.				Second Main Track			Side or Turnout Track.			Rolling Stock.	Total assessment by the State Board of Equalization	Equalized value of railroad property as assessed by local assessors	Equalized value of railroad property in county
	Miles.	Feet.	Assess'd value exclud-ing build-ings.	Value of build-ings on right of way.	Miles.	Feet.	Assess'd value.	Miles.	Feet.	Assess'd value.	Assess'd value.			
Cook—*Concluded:*														
Chicago, Milwaukee & St. Paul	57	937	$ 243,004	$ 49,121	53	2,585	$ 144,422	128	1,331	$ 320,630	$ 59,184	$ 816,361	$ 247,686	$1,064,047
same (P. C. C. & St. L.)	2	1,941									2,451	2,451		2,451
same (P., Ft. W. & C.)		2,922									573	573		573
Chicago & Northwestern	68	5,066	389,621	282,529	68	1,066	184,145	172	2,506	431,187	108,204	1,315,686	228,403	1,544,089
same (Junction)	6	3,757									10,531	10,531	3,490	14,021
Chicago, Rock Island & Pacific	31	4,718	239,202	162,250	31	964	93,548	119	456	297,716	36,801	829,517	186,140	1,015,657
Chicago Terminal Transfer	44	90	990,383	196,150	20	130	100,123	56	1,926	140,312	90,500	1,518,068	182,389	1,700,457
Chicago Union Transfer											100	100	26,945	27,045
Chicago & Western Indiana	26	4,082	803,193	233,742	26	4,082	133,866	68	3,596	206,043	11,770	1,388,614	113,885	1,502,499
Chicago, West Pullman & Southern								1	2,867	3,858		3,858		3,858
Elgin, Joliet & Eastern	26	3,432	119,925	1,413				20	1,184	50,560	56,439	228,337	14,315	242,652
Englewood Connecting	2	1,858	23,519	640				1	356	3,736		27,895	2,780	30,675
Grand Trunk Western	25	4,425	439,247	105,187	20	2,221	81,683	34	605	85,287	53,420	764,824	4,868	769,692
same (C. & W. I.)	4	4,631									10,083	10,083		10,083
Joliet & N. Indiana (Br'nch Mich. Cent.)	13	3,172	54,403	4,755				5	2,690	13,774		72,932	36	72,968
Junction	6	3,757	20,135	1,992	6	3,757	16,779	3	2,344	8,610		47,516		47,516
Lake Shore & Michigan Southern	7	3,215	266,312	40,361	7	3,215	30,436	69	5,169	174,947	26,206	538,262	35,606	573,868
same (C., R. I. & P.)	6	2,317									22,176	22,176		22,176
Lake Street Elevated	9	3,913	438,350	15,300				1	2,717	7,573	73,400	534,623		534,623
Michigan Central	6	1,094	186,216	52,560	6	1,094	24,829	49	382	122,681	9,986	396,272	7,925	404,197
same (J. & N. Ind.)	13	3,172									21,880	21,880		21,880
same (I. C.)	14										22,523	22,523		22,523
New York, Chicago & St. St. Louis	9	5,101	59,797	35,042				25	215	62,602	30,474	187,915	2,304	190,219
same (L. S. & M. S.)	8	4,720									27,195	27,195		27,195
Northwestern Elevated	6	2,300	386,136	43,230	17	2,535	174,891				102,100	706,267		706,267
Pittsburgh, Cin., Chicago & St. Louis	27	5,230	699,763	114,872	27	2,405	109,822	61	3,114	153,974	84,261	1,162,692	70,624	1,233,316
same (Englewood Conn.)	2	1,858									7,080	7,080		7,080
Pittsburgh, Ft. Wayne & Chicago	13	5,125	838,239	235,385	13	3,283	68,109	74	1,544	222,877	69,755	1,434,365	82,835	1,517,200
same (S. C. & S.)	10	845									50,729	50,729		50,729
South Chicago	4	4,016	26,183	9,453	4	2,740	18,076	3	369	7,675		61,387	8,000	69,387
South Chicago & Southern	10	863	81,308	5,360				2	4,523	7,142		93,810	7,402	101,212
South Side Elevated	8	2,791	682,288	16,928	8	2,791	85,286	1	2,970	6,202	113,220	903,924		903,924

Suburban	22	4,960	55,065	5,280	18	3,515	37,323		1,610	305	6,000	103,962			103,962
Terminal	10	2,233	52,115	8,660	10	2,233	41,692	2	2,707	6,282		108,749	4,520		113,269
The Metropolitan West Side Elevated	14	4,610	1,041,117	40,380	14	4,610	148,731	6	2,723	26,063	112,420	1,368,711			1,368,711
Union Consolidated Elevated		1,002	9,489	400								9,889			9,889
Union Elevated	2	849	410,551	30,740	2	849	22,290					463,581			463,581
Union Stock Yard & Transit	8	4,033	438,191	112,970	8	2,871	85,438	101	2,253	283,995		927,594	70,423		998,017
Wisconsin Central	20	2,421	102,482	4,262				13	2,784	33,818	37,807	178,369	2,040		180,409
same (C. T. T.)	3	317									5,645	5,645			5,645
same (C. Junction)	4	3,168									8,485	8,485			8,485
same (I. C.)	15	1,531									28,204	28,204			28,204
Wabash (C. & S.)	21	1,014	95,364	3,290				21	4,668	54,711	33,451	186,816	28,000		214,816
same (C. & W. I.)	7	3,696									12,154	12,154			12,154
Total	890	792	$10,424,783	$1,917,531	486	5,153	$1,989,149	1,436	832	$3,706,454	$1,915,052	$19,952,969	$2,081,186		$22,034,155
DE KALB:															
Chicago, Burlington & Quincy	9	4,095	55,721	605	5	2,098	14,573	3	2,195	8,539	11,193	90,631	61		90,692
Chicago & Iowa	18	2,936	92,780	782				3	3,456	9,136	13,583	116,281	102		116,383
Chicago Great Western	18	655	92,433	2,480				4	3,300	11,563	27,013	133,489	12		133,501
same (D. & G. W.)	5	4,280									8,661	8,661			8,661
Chicago, Madison & Northern	14	537	70,509	2,318				2	2,650	6,255	4,978	84,060	48		84,108
Chicago, Milwaukee & St. Paul	18	919	77,240	4,207	18	919	49,070	4	3,701	11,752	18,812	161,081	2,800		163,881
Chicago & Northwestern	17	2,640	98,875	3,410	17	2,640	47,250	10	3,291	26,558	27,459	203,552	320		203,872
same (Nor. Ill.)	38	4,976									61,104	61,104	21		61,125
same (S. & C.)	4	3,366									7,277	7,277	10		7,287
DeKalb & Great Western	5	4,280	11,621	1,200				2	1,277	2,242		15,063	20		15,083
Northern Illinois	38	4,976	97,356	1,818				6	1,475	12,559		111,733			111,733
Sycamore & Cortland	4	3,366	13,913	1,350					4,004	1,996		17,159			17,159
Total	195	66	$610,448	$18,170	41	377	$110,893	38	4,229	$90,500	$180,080	$1,010,091	$3,394		$1,013,485
DEWITT:															
Chicago, Havana & Western	24	4,530	49,716	1,064				1	4,460	3,689	8,166	62,635	170		62,805
Chicago & Springfield	32	4,034	98,292	4,079				10	1,907	25,903	19,733	148,007	2,110		150,117
Peoria & Eastern	4	3,922	14,228	138				1	3,511	3,330	4,779	22,475	50		22,525
Terre Haute & Peoria	18	3,681	44,873	480				1	2,392	2,180	13,701	61,234	30		61,264
Total	81	327	$207,109	$5,761				15	1,710	$35,102	$46,379	$294,351	$2,360		$296,711
DOUGLAS:															
Chicago & Eastern Illinois	24	751	96,569	2,108				4	2,491	8,944	56,559	164,180			164,180
Indiana, Decatur & Western	27	4,752	83,700	3,220				4	65	10,031	55,308	152,259			152,259
Terre Haute & Peoria	22	3,650	54,459	760				3	1,373	4,890	16,628	76,737			76,737
Toledo, St. Louis & Western		3,221	2,135								854	2,989			2,989
Total	75	1,814	$236,863	$6,088				11	3,929	$23,865	$129,349	$396,165			$396,165

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Statement—Continued.

Company—Railroad.	Main Track, Including Right of Way and Improvements Thereon.				Second Main Track			Side or Turnout Track.			Rolling Stock.	Total assessment by the State Board of Equalization	Equalized value of railroad property as assessed by local assessors	Equalized value of railroad property in county
	Miles	Feet	Assess'd value exclud-ing build-ings.	Value of build-ings on right of way.	Miles	Feet	Assess'd value.	Miles	Feet	Assess'd value.	Assess'd value.			
DuPage:														
Atchison, Topeka & Santa Fé	4	4,734	$ 29,380	$ 23				1	2,297	$ 3,588	$ 5,403	$38,394	$ 21	$ 38,415
Chicago, Burlington & Quincy	21	3,517	123,497	3,967	18	1,218	$49,223	13	655	32,810	24,807	234,304	3,025	237,329
Chicago Great Western	17	3,934	90,500	2,440				3	2,995	8,918	26,449	128,307	12	128,319
Chicago, Madison & Northern	19	124	95,117	2,655				5	4,345	14,557	6,716	119,045	69	119,114
Chicago, Milwaukee & St. Paul	12	1,138	51,916	731	12	1,138	32,982	1	3,698	4,251	12,644	102,524	60	102,584
Chicago & Northwestern	25	396	141,674	5,994	18	2,255	49,753	13	3,842	34,319	39,345	271,085	9,565	280,650
Elgin, Joliet & Eastern	18	4,092	84,488	918				6	2,965	16,404	39,761	141,571	150	141,721
Total	119	2,095	$616,572	$16,728	48	4,611	$131,958	45	4,957	$114,847	$155,125	$1,035,230	$12,902	$1,048,132
Edgar:														
Cairo, Vincennes & Chicago	29	3,265	79,970	1,030				4	2,734	9,036	23,823	113,859		113,859
Cleve., Cin., Chicago & St. Louis	25	1,481	121,346	1,345				7	2,747	18,801	58,603	200,095		200,095
Indiana, Decatur & Western	21	2,323	64,320	980				1	4,848	4,796	42,502	112,598		112,598
same (O. R. Div.)	27	3,840	47,136	580				2	2,349	3,667	4,767	56,150		56,150
Terre Haute & Peoria	26	4,985	64,666	450				4	629	6,179	19,745	91,040		91,040
Toledo, St. Louis & Western	19	4,487	69,474	1,114				1	3,444	3,305	27,786	101,679		101,679
Total	150	4,541	$446,912	5,499				22	911	$45,784	$177,226	$675,421		$675,421
Edwards:														
Cairo, Vincennes & Chicago	3	3,765	10,025						2,170	822	2,986	13,833		13,833
Peoria, Decatur & Matt. (Mat. & Evans.)	22	1,907	55,903	305				1	4,979	3,886	18,059	78,153	50	78,203
Southern	9	3,963	27,302	410				1	959	2,363	13,896	43,971	40	44,011
Total	35	4,355	$93,230	$715				3	2,828	$7,071	$34,941	$135,957	$90	$136,047

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Effingham:														
Baltimore & Ohio Southwestern	22	1,957	67,112	805				2	4,652	7,203	50,920	126,050		126,050
Chicago & Eastern Illinois	10	871	40,660	94					4,979	1,896	23,814	66,454		66,454
Chicago, Paducah & Memphis	3	4,033	9,410	218					2,133	808	1,786	12,222		12,222
Illinois & Indiana	11	2,616	17,243	6					685	131	3,499	20,879		20,879
Terre Haute & Indianapolis	25	2,078	139,665	4,053				10	3,301	26,563	73,570	243,851		243,851
Wabash (C. & P.)	19	909	86,275	956				1	2,080	3,485	30,262	120,978		129,978
Total	92	1,904	$360,365	$6,142				16	1,990	$40,076	$183,851	$590,434		$590,434
Fayette:														
Baltimore & Ohio Southwestern	1	1,726	3,981	75					310	147	3,020	7,223		7,223
Chicago, Paducah & Memphis	16	3,472	41,644	2,784				4	4,972	9,883	7,904	62,215	130	62,345
Terre Haute & Indianapolis	25	4,272	141,950	945				6	4,427	17,096	74,774	234,765	333	235,098
Toledo, St. Louis & Western	16	3,960	58,625	859				1	407	2,154	23,447	85,079	110	85,189
Total	60	2,870	$246,200	$4,657				12	4,836	$29,280	$109,145	$389,282	$573	$389,855
Ford:														
Chicago & Springfield	25	3,306	76,879	521				3	184	7,587	15,424	100,421	155	100,576
Kankakee & Southwestern	5	2,513	14,785	2,059					4,231	1,603	3,754	22,201	66	22,267
Lake Erie & Western	28	3,151	114,387	3,945				5	2,646	13,753	49,747	181,832	210	182,042
Toledo, Peoria & Western	6	99	21,668	465				1	389	2,147	7,932	32,212	25	32,237
Wabash (C. & P.)	15	2,503	69,633	2,014				3	1,539	8,229	24,425	104,301	650	104,951
Total	81	1,012	$297,352	$9,004				13	3,709	$33,319	$101,292	$440,967	$1,106	$442,073
Franklin:														
Chicago, Paducah & Memphis	18	2,738	46,296	590				2	2,731	5,034	8,787	60,707	3,078	63,785
St. Louis, Alton & Terre Haute	27	651	103,068	672				1	4,084	3,724	53,820	161,284	23	161,307
Total	45	3,389	$149,364	$1,262				4	1,535	$8,758	$62,607	$221,991	$3,101	$225,092
Fulton.														
Chicago, Burlington & Quincy	51	2,656	293,567	2,665				7	3,041	18,940	58,970	374,142	1,427	375,569
St. Louis, Rock Island & Chicago	16	3,313	63,184	846				3	2,123	8,505	12,937	85,472	650	86,122
Chicago, Havana & Western		2,573	975								160	1,135		1,135
Fulton County Narrow Gauge	41	3,875	39,647	1,440				1	3,763	857	11,296	53,240	152	53,392
Iowa Central	12	5,175	38,940	225				5	368	10,139	14,199	63,503	229	63,732
Toledo, Peoria & Western	33	2,105	120,235	2,195				5	1,370	10,519	44,013	176,962	783	177,745
Total	156	3,857	$556,548	$7,371				23	105	$48,960	$141,575	$754,454	$3,241	$757,695
Gallatin:														
Baltimore & Ohio Southwestern	16	3,902	50,217	855				5	591	12,780	38,101	101,953	275	102,228
same (L. & N.)	2	3,456									6,042	6,042		6,042
Cairo, Vincennes & Chicago		1,168	597								178	775		775
Louisville & Nashville	10	5,099	42,766	1,196				1	2,099	2,795	13,794	60,551	3,390	63,941
same (B. & O. S. W.)	2	3,459									3,340	3,340		3,340
Total	33	1,244	$93,580	$2,051				6	2,690	$15,575	$61,455	$172,661	$3,665	$176,326

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Statement.—Continued.

Company—Railroad.	Main Track, Including Right of Way and Improvements Thereon.				Second Main Track			Side or Turnout Track.			Rolling Stock.	Total assessment by the State Board of Equalization	Exualized value of railroad property assessed by local assessors	Equalized value of railroad property in county
	Miles	Feet	Assess'd value excluding buildings.	Value of buildings on right of way.	Miles	Feet	Assess'd value.	Miles	Feet	Assess'd value.	Assess'd value.			
GREENE:														
Chicago & Alton	39	675	$234,767	$7,436				8	3,763	$21,782	$92,876	$356,861	$1,050	$357,911
St. Louis, Rock Island & Chicago	23	4,399	90,566	1,460				4	994	10,471	18,543	121,040	170	121,210
Quincy, Carrollton & St. Louis	25	4,731	51,792	320				1	4,588	1,870	3,135	57,117	20	57,137
Total	88	4,525	$377,125	$9,216				14	4,065	$34,123	$114,554	$535,018	$1,240	$536,258
GRUNDY:														
Atchison, Topeka & Santa Fé	20	1,071	121,217	2,145				6	1,279	15,606	22,294	161,262	1,430	162,692
Chicago & Alton	20	108	120,123	4,944	9	2,347	$26,445	6	3,947	16,869	47,522	215,903	12,360	228,263
Chicago, Rock Island & Pacific	20	1,147	151,629	3,100	20	1,147	60,652	4	4,970	12,353	23,328	251,062	3,250	254,312
C., C., C. & St. Louis (K. & S.)	20	679									46,660	46,660		46,660
Elgin, Joliet & Eastern	19	3,795	88,734	3,393				16	4,051	41,918	41,760	175,805	4,570	180,375
Kankakee & Seneca	20	679	50,322	1,278				3	843	6,319		57,919	2,130	60,049
Total	120	2,199	$532,025	$14,860	29	3,494	$87,097	37	4,530	$93,065	$181,564	$908,611	$23,740	$932,351
HAMILTON:														
Louisville & Nashville	36	3,680	143,118	2,064				3	892	6,338	46,163	197,683	700	198,383
HANCOCK:														
Atchison, Topeka & Santa Fé	7	3,211	45,649	1,365				4	2,368	11,121	8,396	66,531	321	66,852
Chicago, Burlington & Quincy	41	1,576	235,401	1,338				3	4,379	9,573	47,286	293,598	195	293,793
Toledo, Peoria & Western	41	2,501	149,305	2,745				4	3,776	9,430	54,655	216,135	157	216,292
Wabash	22	909	99,775	2,268				1	4,046	4,416	34,998	141,457	120	141,577
same (T. P. & W.)	7	5									11,051	11,051		11,051
Total	119	2,922	$530,130	$7,716				14	4,009	$34,540	$156,386	$728,772	$793	$729,565

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HENDERSON:															
Atchison, Topeka & Santa Fé	22	2,597	134,951	3,615				4	4,455	12,109	24,819	175,494	463	175,957
Chicago, Burlington & Quincy	32	2,860	185,520	1,695	18	175	48,690	8	1,023	20,484	37,262	293,651	138	293,789
St. Louis, Rock Island & Chicago	14	4,112	56,159	310					2,627	1,244	11,499	69,212	48	69,260
Iowa Central		4,016	2,282								832	3,114		3,114
Toledo, Peoria & Western	4	3,198	16,519						500	189	6,047	22,755		22,755
same (C. B. & Q)	8	561									10,683	10,683		10,683
Total	83	1,447	395,431	5,620	18	175	$48,690	13	3,325	$34,026	$91,142	$574,909	$649	$575,558	
HENRY:															
Chicago, Burlington & Quincy	35	1,364	200,973	2,954	14	3,281	39,478	12	3,323	31,574	40,370	315,349	2,954	318,303	
St. Louis, Rock Island & Chicago	27	907	103,253	748				4	3,612	11,710	21,141	136,852	526	137,378	
Chicago, Rock Island & Pacific	27	3,710	207,770	3,200	27	3,710	83,108	6	3,145	16,489	31,365	342,532	1,807	344,339	
Rock Island & Peoria	31	4,180	181,212	2,780				4	4,719	12,235	38,422	234,649	65	234,714	
Total	121	4,981	$693,208	$9,682	42	1,711	$122,586	26	4,229	$72,008	$131,898	$1,029,382	$5,352	$1,034,734	
IROQUOIS:															
Chicago & Eastern Illinois	47	2,937	190,225	3,487	36	1,742	108,990	7	3,741	15,417	111,412	429,531	118	429,649	
Chicago, L. Shore & East. (C. & E. I.)	36	1,742									8,019	8,019		8,019	
Chicago & Springfield	9	2,022	28,149	495				1	5,267	4,994	5,651	39,289	96	39,385	
Cincinnati, Lafayette & Chicago	20	2,595	98,359	714				8	1,398	20,662		119,735	26	119,761	
Cleve., C., Chi. & St. L. (C., LaF. & C.)	20	2,595									47,502	47,502		47,502	
Toledo, Peoria & Western	31	2,480	113,291	2,835				5	3,562	11,349	41,471	168,946	29	168,975	
Total	165	3,811	$430,024	$7,531	36	1,742	$108,990	23	3,408	$52,422	$214,055	$813,022	$269	$813,291	
JACKSON:															
Chicago & Texas	33	4,958	74,698	281				8	3,758	14,810	13,202	102,959	3,750	106,709	
Mobile & Ohio	34	1,411	133,642	9,500				10	1,147	20,434	46,630	210,206	2,915	213,121	
St. Louis, Alton & Terre Haute	20	3,135	78,256	3,260				10	2,619	22,042	40,864	144,422	120	144,542	
Total	88	4,224	$286,564	$13,041				29	2,244	$57,286	$100,696	$457,587	$6,785	$464,372	
JASPER:															
Illinois & Indiana	23	4,964	35,910	38					5,080	962	7,287	44,197	25	44,222	
Indiana, Decatur & Western (O. R. Div.)	23	129	39,142	216				1	1,624	1,962	3,959	45,279		45,279	
Peoria, Decatur & Mattoon (M. & E.)	23	3,400	59,110	535				2	93	4,035	19,094	82,774		82,774	
Total	70	3,213	$134,162	$789				4	1,517	$6,959	$30,340	$172,250	$25	$172,275	
JEFFERSON:															
Chicago, Paducah & Memphis	24	2,747	61,301	1,552				3	4,369	7,655	11,635	82,143	310	82,453	
Louisville & Nashville	26	4,827	104,956	3,316				4	718	8,272	33,857	150,411	1,185	151,596	
Southern	26	1,447	73,567	840				2	3,282	5,243	37,443	117,093	446	117,539	
Wabash, Chester & Western	17	1,816	31,219	845				1	1,782	2,006	6,173	40,243	550	40,793	
Total	93	277	$271,053	$6,553				11	4,871	$23,176	$89,108	$389,890	$2,491	$392,381	

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Statement—Continued.

County—Railroad.	Main Track, Including Right of Way and Improvements Thereon.				Second Main Track			Side or Turnout Track.			Rolling Stock.	Total assessment by the State Board of Equalization.	Equalized value of railroad property assessed by local assessors	Equalized value of railroad property in county
	Miles	Feet	Assess'd value, excluding buildings.	Value of buildings on right of way.	Miles	Feet	Assess'd value.	Miles	Feet	Assess'd value.	Assess'd value.			
Jersey:														
Chicago & Alton	16	4,650	$101,284	$ 794				1	1,295	$3,113	$40,069	$145,260	$290	$145,550
Chicago, Peoria & St. Louis	33	1,319	83,124	4,762				3	4,117	7,559	53,154	148,599	375	148,974
St. Louis, Rock Island & Chicago	5	3,746	21,696	60					1,947	922	4,442	27,120	19	27,139
Total	55	4,435	$206,104	$5,616				5	2,079	$11,594	$97,665	$320,979	$684	$321,663
JoDaviess:														
Chicago, Burlington & Northern	22	1,138	111,077	2,128				3	2,106	8,497	40,352	162,054	2,756	164,810
same (I. C.)	13	1,617									24,169	24,169		24,169
same (D. & D. Bdg.)		860									203	303		303
Chicago Great Western	30	691	153,667	3,920				6	1,499	15,710	44,909	218,206	125	218,331
same (C., B. & N.)	1	4,488									2,757	2,757		2,757
same (D. & D. Bdg.)		898									253	253		253
same (I. C.)	13	1,214									19,719	19,719		19,719
Chicago, Milwaukee & St. Paul	1	49	4,290	6					1,373	650	1,045	5,991	69	6,060
Chicago & Northwestern	10	1,571	58,181	200				1	2,119	3,503	16,158	78,042	125	78,167
Total	92	1,986	$327,215	$6,254				11	1,817	$28,360	$149,665	$511,494	$3,075	$514,569
Johnson:														
Cairo, Vincennes & Chicago	28	1,396	76,314	1,028				3	2,024	6,767	22,734	106,843	$726	107,569
Chicago, Paducah & Mem. (E. I. & M.)	24	2,505									11,613	11,613		11,613
Eastern Illinois & Missouri	24	2,505	85,660	1,050				4	469	6,123		92,843	220	93,063
St. Louis, Alton & Terre Haute	21	3,921	82,622	692				1	2,839	3,229	43,144	129,687	77	129,764
Total	98	5,047	$244,596	$2,770				9	52	$16,129	$77,491	$340,986	$1,023	$342,009

KANE:														
Chicago, Burlington & Quincy	24	3,608	140,695	46,312	6	849	$16,634	32	2,598	81,230	28,262	313,133	115,798	428,931
Chicago & Iowa	14	1,643	71,556	192				1	967	2,953	10,475	85,176	162	85,338
Chicago Great Western	18	1,848	93,585	2,900				7	4,114	19,448	27,350	143,283	1,767	145,050
Chicago, Madison & Northern	18	4,340	94,110	2,747				4	2,258	11,069	6,644	114,570	2,303	116,873
Chicago, Milwaukee & St. Paul	19	2,814	83,015	2,439	19	2,814	52,739	7	1,319	18,125	20,219	176,537	172	176,709
Chicago & Northwestern	56	2,612	319,196	9,869	17	3,071	47,470	32	2,874	81,361	88,645	546,540	11,335	557,875
Elgin, Joliet & Eastern	4	205	18,175	828				1	5,224	4,974	8,553	32,530	1,250	33,780
Total	156	1,230	$820,331	$65,287	43	1,454	$116,843	87	3,504	$219,160	$190,148	$1,411,769	$132,787	$1,544,556
KANKAKEE:														
Chicago & Eastern Illinois	32	110	128,088	3,915	20	3,548	62,016	22	56	44,021	75,017	313,052	4,443	317,495
Chicago, L. Shore & East. (C. & E. I.)	21	19									4,636	4,636		4,636
Cincinnati, LaFayette & Chicago	12	2,588	59,953	2,067				15	2,514	38,690		160,710	140	100,350
Cleve., C., Chi. & St. L. (C., LaF. & C.)	12	2,588									28,954	28,954		28,954
same (K. & S.)	20	3,021									47,688	47,688		47,688
Indiana, Illinois & Iowa	38	8,520	123,733	24,339				24	3,024	61,432	36,997	246,501	13,435	259,936
Kankakee & Seneca	20	3,021	51,430	3,994				1	4,321	3,637		59,061	70	59,131
Kankakee & Southwestern	29	84	78,343	1,056				3	2,288	6,848	19,892	106,139	160	106,299
Wabash (C. & S)	8	4,160	39,546	765				1	3,128	3,981	13,571	58,163	200	58,363
Total	195	3,271	$481,088	$36,136	20	3,548	$62,016	68	4,721	$158,609	$227,055	$964,904	$18,448	$983,352
KENDALL:														
Chicago, Burlington & Quincy	33	2,545	190,848	1,329	14	2,033	38,840	7	4,207	19,492	38,336	288,845	3,459	292,304
Elgin, Joliet & Eastern	3	2,922	15,990	77					3,455	1,636	7,525	25,228	100	25,328
Total	37	187	$206,838	$1,406	14	2,033	$38,840	8	2,382	$21,128	$45,861	$314,073	$3,559	$317,632
KNOX:														
Atchison, Topeka & Santa Fé	25	828	150,941	11,398				7	2,757	18,805	27,760	208,899	1,128	210,027
Chicago, Burlington & Quincy	71	1,798	406,641	25,224	25	3,794	69,440	56	3,397	141,608	81,683	724,596	31,941	756,537
same (G. & Rio)	12	1,010									13,959	13,959		13,959
Galesburg & Rio	12	1,010	46,327	148				1	641	2,804		49,279	33	49,312
Fulton County Narrow Gauge	17	2,989	16,688	810					3,223	305	4,754	22,557	1	22,558
Galesburg & Great Eastern	11	3,089	16,219						3,700	511		16,730	6	16,736
Iowa Central	15	3,225	46,893	90				1	3,560	3,349	17,077	67,349	4	67,353
Rock Island & Peoria	2	149	11,561								2,451	14,012	1	14,013
St. Louis, Rock Island Chicago	5	1,854	20,335	454					1,376	652	4,164	25,605	63	25,668
Total	173	112	$715,545	$38,119	25	3,794	$69,440	68	2,814	$168,034	$151,848	$1,142,986	$33,177	$1,176,163
LAKE:														
Chicago, Milwaukee & St. Paul	43	4,118	186,065	4,634	24	2,047	65,847	9	2,991	23,916	45,317	325,779	9,867	335,646
Chicago & Northwestern	28	3,684	162,142	8,506	28	3,684	77,484	18	1,361	45,644	45,029	338,805	965	339,770
Elgin, Joliet & Eastern	23	5,078	107,829	1,643				14	5,019	37,376	50,746	197,593	4,682	202,275
Waukegan & Mississippi Valley											11,355	11,355		11,355
Wisconsin Central	25	2,529	127,395	4,002				13	3,894	34,344	46,998	212,739	3,193	215,932
Total	121	4,849	$583,430	$18,786	53	451	$143,331	56	2,705	$141,280	$199,445	$1,086,271	$18,707	$1,104,978

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Statement—Continued.

County—Railroad.	Main Track, Including Right of Way and Improvements Thereon.				Second Main Track			Side or Turnout Track.			Rolling Stock.	Total assessment by the State Board of Equalization	Equalized value of railroad property assessed by local assessors	Equalized value of railroad property in county
	Miles	Feet	Assess'd value, excluding buildings.	Value of buildings on right of way.	Miles	Feet	Assess'd value.	Miles	Feet	Assess'd value	Assess'd value.			
LaSalle:														
Atchison, Topeka & Santa Fé	25	3,383	$153,844	$5,798	.....	.....	.....	12	4,360	$32,065	$28,294	$220,001	$ 40	$220,041
Chicago & Alton	12	1,096	73,245	1,702	.....	.....	.....	1	1,061	3,002	28,977	106,926	40	106,966
Chicago, Burlington & Quincy	80	4,926	461,318	7,341	25	3,102	$69,086	28	2,733	71,294	92,666	701,705	842	702,547
same (I. V. N.)	28	978	.....	.....	.....	.....	.....	.....	.....	.....	32,271	32,271	.....	32,271
Chicago & Northwestern (Nor. Ill.)	21	2,037	.....	.....	.....	.....	.....	.....	.....	.....	33,556	33,556	280	33,836
Chicago, Rock Island & Pacific	31	2,557	236,132	7,300	31	2,557	94,453	26	2,837	66,343	36,329	440,557	380	440,937
Cleve., C., Chi. & St. Louis (K. & S.)	1	1,981	.....	.....	.....	.....	.....	.....	.....	.....	3,188	3,188	20	3,208
Illinois Valley & Northern	29	978	84,556	1,682	.....	.....	.....	7	3,697	19,250	.....	105,488	89	105,577
Indiana, Illinois & Iowa	19	4,190	63,339	2,035	.....	.....	.....	4	4,330	12,050	18,939	96,363	40	96,403
Kankakee & Seneca	1	1,981	3,438	.....	.....	.....	.....	.....	2,082	789	.....	4,227	209	4,436
LaSalle & Bureau County	5	122	12,558	.....	.....	.....	.....	.....	1,774	840	.....	13,398	.....	13,398
Northern Illinois	21	2,037	53,464	651	.....	.....	.....	2	4,409	5,670	.....	59,785	.....	59,785
Toluca & Eastern	.....	1,954	740	.....	.....	.....	.....	.....	1,320	375	372	1,487	.....	1,487
Wabash (C. & P.)	1	657	5,060	910	.....	.....	.....	1	3,994	4,391	1,775	12,036	40	12,076
Total	278	2,477	$1,147,694	$27,319	57	379	$163,539	87	917	$216,069	$276,367	$1,830,988	$1,980	$1,832,968
Lawrence:														
Baltimore & Ohio Southwestern	21	2,396	64,361	1,165	.....	.....	.....	6	4,636	17,195	48,833	131,554	830	132,384
Cairo, Vincennes & Chicago	21	2,700	58,081	463	.....	.....	.....	3	628	6,238	17,302	82,084	129	82,213
Total	42	5,096	$122,442	$1,628	.....	.....	.....	9	5,264	$23,433	$66,135	$213,638	$959	$214,597
Lee:														
Chicago, Burlington & Quincy	42	4,741	244,518	907	.....	.....	.....	3	153	7,572	49,117	302,114	99	302,213
Chicago & Iowa	8	4,589	44,346	136	.....	.....	.....	.....	3,759	1,780	6,492	52,754	4	52,758
Chicago & Northwestern	26	677	147,625	2,520	26	677	$70,546	14	1,223	35,579	40,998	297,268	1,331	298,599
Total	77	4,727	$436,489	$3,563	26	677	$70,546	17	5,135	$44,931	$96,607	$652,136	$1,434	$653,570

LIVINGSTON:														
Atchison, Topeka & Santa Fe	13	5,269	$ 83,988	$ 1,373				5	4,180	$14,479	$ 15,440	$115,280		$115,280
Chicago & Alton	51	3,843	310,367	7,370	29	2,440	$82,494	7	3,293	19,059	122,785	542,075	$1,098	543,173
Indiana, Illinois & Iowa	29	5,258	95,967	3,048				11	4,610	29,683	28,700	157,418		157,418
Kankakee & Southwestern	61	5,113	167,315	18,559				4	5,126	9,942	42,482	238,298	100	238,398
Toledo, Peoria & Western	18	574	65,192	1,595				5	432	10,164	23,864	100,815		100,815
Wabash (C. & P.)	33	1,976	150,184	1,823				2	2,041	5,966	52,690	210,653	100	210,753
same (C. & S.)	32	458	144,391	7,182				8	3,390	21,605	50,648	223,826		223,826
same (T., P. & W.)	5										7,892	7,892		7,892
Total	246	1,371	$1,017,424	$40,950	29	2,440	$82,494	46	1,952	$110,898	$344,491	$1,596,257	$1,298	$1,597,555
LOGAN:														
Chicago & Alton	28	2,880	171,273	3,928				6	3,613	16,711	67,757	259,669	265	259,934
same (St. L., P. & N.)	15	404	90,459	1,370				1	1,245	3,090	35,787	130,706	150	130,856
Chicago, Havana & Western	24	2,950	49,118	1,812				3	720	6,273	8,068	65,271	150	65,421
Chicago & Springfield	17	193	51,109	691				1	5,219	4,971	10,261	67,032	74	67,106
Peoria, Decatur & Mattoon	33	1,133	83,037	725				5	2,891	11,095	26,824	121,681	105	121,786
Terre Haute & Peoria	11	3,048	27,785	240				1	67	1,519	8,484	38,028	10	38,038
Tota	130	48	$472,781	$8,766				19	3,195	$43,659	$157,181	$682,387	754	$683,141
MACON:														
Chicago, Havana & Western	16	170	32,064	944				1	2,389	2,905	5,266	41,179	41	41,220
Indiana, Decatur & Western	11	2,008	34,141	2,380				2	4,397	7,082	22,560	66,163	10	66,173
Peoria, Decatur & Mattoon	16	3,413	41,616	230				1	5,203	3,971	13,443	59,260	705	59,965
same (T. H. & P.)	7	2,746									6,073	6,073		6,073
same (I. C.)	2	3,432									2,140	2,140		2,140
Terre Haute & Peoria	14	1,606	34,330	760				1	3,151	2,395	10,482	47,967	10	47,977
same (I. C.)	15	2,214									11,299	11,299		11,299
Wabash	40	1,810	181,543	20,450				24	1,465	60,694	63,679	326,366	2,924	329,290
Total	124	1,559	$323,694	$24,764				33	765	$77,047	$134,942	$560,447	$3,690	$564,137
MACOUPIN:														
Chicago & Alton	40	3,607	244,099	4,920				12	75	30,036	96,568	375,623	1,325	376,948
Chicago, Peoria & St. Louis	28	1,613	70,764	2,570				2	1,596	4,605	45,250	123,189	40	123,229
same (L. & M. Div.)	8	2,958	21,400	800				2	3,257	5,234	13,684	41,118	20	41,138
Cleve., Cincin., Chicago & St. Louis	20	3,612	99,284	765				4	5,152	12,439	47,948	160,436	48	160,484
Illinois Central (Litchfield Div.)	7	2,516	20,560	510				1	2,955	3,085	13,955	38,110	5	38,115
Jacksonville & St. Louis	18	2,770	46,312	1,102				3	294	6,111	8,286	61,811	165	61,976
Quincy, Carrollton & St. Louis	25	1,628	50,617	305				1	1,844	1,348	3,063	55,423	359	55,782
St. Louis, Rock Island & Chicago	13	2,568	51,248	408				1	4,897	4,819	10,493	67,028	556	67,584
Wabash	8	3,639	39,101	1,424				4	4,692	12,221	13,715	66,461	40	66,501
Total	171	3,791	$643,385	$12,954				34	3,552	$79,898	$252,962	$989,199	$2,558	$991,757

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Statement—Continued.

County—Railroad.	Main Track, Including Right of Way and Improvements Thereon.				Second Main Track			Side or Turnout Track.			Rolling Stock.	Total assessments by the State Board of Equalization	Equalized value of railroad property assessed by local assessors	Equalized value of railroad property in county
	Miles.	Feet.	Assess'd value, excluding buildings.	Value of buildings on right of way.	Miles.	Feet.	Assess'd value.	Miles.	Feet.	Assess'd value.	Assess'd value.			
Madison:														
Chicago & Alton	39	4,092	$238,650	$10,260	1	2,258	$3,997	15	2,865	$38,856	$94,413	$386,176	$4,289	$390,465
Chicago, Peoria & St. Louis	22	2,890	56,368	3,109				5	1,740	10,659	36,044	106,180	1,390	107,570
same (L. & M. Div.)	32	2,830	81,340	1,232				3	4,463	7,690	52,013	142,275	40	142,315
Cleveland, Cin., Chicago & St. Louis	33	378	158,744	3,049				15	5,020	39,877	76,664	278,334	600	278,934
Illinois Central (Litchfield Div.)	27	1,585	75,076	895				4	1,590	8,602	50,954	135,527	2,160	137,687
Illinois Terminal	12	2,891	56,464	800					3,295	1,560	14,445	73,269	300	73,569
Madison, Illinois & St. Louis	4	1,584	86,000	2,640				5	5,115	29,844	11,740	130,224	2,575	132,799
St. Louis, Rock Island & Chicago	8	4,727	33,802	155				1	2 741	3,798	6,921	44,676	220	44,896
same (J. & St. L.)	17	153									13,249	13,249		13,249
St. Louis, Troy & Eastern	18	4,476	47,119	154				3	1,499	4,926	33,345	85,544	1,887	87,431
Southern		730	387						830	315	197	899		899
Terre Haute & Indianapolis	24	3,000	135,125	2,373				11	4,812	29,779	71,179	238,456	60	238,516
Toledo, St. Louis & Western	37	1,901	130,760	4,826				9	2,442	18,925	52,296	206,807	2,370	209,177
Wabash	34	1,045	153,891	3,166				7	4,111	19,446	53,980	230,483	1,045	231,528
Collinsv'le, Caseyv'le & E. St. L. Elect'c	1	3,775	2,572								374	2,946		2,946
Total	314	4,377	$1,256,298	$32,659	1	2,258	$3,997	85	3,563	$214,277	$567,814	$2,075,045	$16,936	$2,091,981
Marion:														
Baltimore & Ohio Southwestern	24	766	72,435	1,330				7	90	17,543	54,959	146,267	236	146,503
Chicago, Paducah & Memphis	25	3,958	64,374	1,590				3	396	6,150	12,218	84,332	219	84,551
Illinois Southern	13	1,050	23,758	438					3,202	910	4,623	29,729		29,729
Jacksonville & St. Louis	2	4,666	7,209	760					2,330	883	1,290	10,142	73	10,215
Southern	6	4,349	19,106	220					4,084	1,547	9,725	30,598	421	31,019
same (J. & St. L.)	1	1,869									1,930	1,930		1,930
Total	74	818	$186,882	$4,338				11	4,822	$27,033	$84,745	$302,998	$949	$303,947

MARSHALL:															
Atchison, Topeka & Santa Fe	23	63	$138,072	$4,065				6	4,172	$16,975	225,394	$184,506	$682	$185,188	
Chicago & Alton	28	5,238	173,952	2,578				2	3,443	6,630	68,818	251,978	225	252,203	
Chi., Rock Island & Pacific (Peo. Br'ch)	13	3,689	102,740	1,000				1	1,029	2,987	15,807	122,534	630	123,164	
Toluca & Eastern	4	2,798	9,060	240				4	2,165	6,615	4,548	20,463		20,463	
Toluca, Marquette & Northern	3	652	4,685								1,240	5,925	147	6,072	
Total	73	1,880	$428,509	$7,883				15	249	$33,207	$115,807	$585,406	$1,684	$587,090	
MASON:															
Chicago & Alton	12	4,370	76,966	1,198				4	814	10,386	30,449	118,999	215	119,214	
same (St. L., P. & N.)		4,296	4,882	320					4,075	1,929	1,931	9,062	50	9,112	
Chicago, Havana & Western	25	4,304	51,630	3,080				2	3,772	5,429	8,480	68,619	1,915	70,534	
Chicago, Peoria & St. Louis	49	3,748	124,275	3,480				7	3,694	15,399	79,467	222,621	4,115	226,736	
Total	89	878	$257,753	$8,078				15	1,795	$33,143	$120,327	$419,301	$6,295	$425,596	
MASSAC:															
Chi., Paducah & Memphis (E. I. & M.)	9	1,237									4,381	4,381		4,381	
Eastern Illinois & Missouri	9	1,227	$2,320	618				3	70	4,520		37,458	1,307	38,765	
St. Louis, Alton & Terre Haute	19	2,393	78,915	1,658				5	300	10,620	38,597	124,790	355	125,145	
Total	37	4,857	$106,235	$2,276				8	370	$15,140	$42,978	$166,629	$1,662	168,291	
MCDONOUGH:															
Chicago, Burlington & Quincy	34	1,720	195,657	2,728				9	4,534	24,647	39,302	262,534	251	262,585	
St. Louis, Rock Island & Chicago	19	2,779	74,200	382				2	1,707	5,808	15,193	95,583		95,583	
Toledo, Peoria & Western	27	3,876	99,843	1,980				3	2,542	6,963	36,548	145,334		145,334	
Total	81	3,095	$369,700	$5,090				15	3,503	$37,418	$91,043	$503,251	$251	$503,502	
MCHENRY:															
Chicago, Milwaukee & St. Paul	12	4,963	54,995	512				1	543	2,757	13,394	71,658	1,013	72,671	
Chicago & Northwestern	96	1,948	544,484	4,635	27	1,863	$73,853	26	1,140	65,540	151,212	839,724	3,195	842,919	
Total	109	1,631	$599,479	$5,147	27	1,863	$73,853	27	1,683	$68,297	$164,606	$911,382	$4,208	$915,590	
MCLEAN:															
Chicago & Alton	56	5,242	341,957	71,112	25	394	70,209	29	1,061	75,002	135,282	691,562	85,068	776,630	
Chicago & Springfield	10	4,808	32,732	566				1	2,980	3,911	6,572	43,781	70	43,851	
Kankakee & Southwestern	29	1,113	78,869	8,111				3	2,892	7,095	20,025	114,100	168	114,268	
Lake Erie & Western	42	1,021	168,773	8,820				6	4,261	17,018	73,406	268,011	262	268,273	
Peoria & Eastern	37	151	111,086	1,013				10	1,306	20,495	37,310	169,904	165	170,069	
Rantoul	16	4,188	30,228	1,470				1	1,321	1,250	632	33,580	150	33,730	
Toledo, Peoria & Western	21	348	75,837	1,520				3	635	6,241	27,761	111,359	95	111,454	
Wabash (C. & P.)	2	2,952	11,516	218					4,424	2,095	4,039	17,898	100	17,998	
Total	216	3,983	$850,998	$92,860	25	394	$70,209	56	3,040	$131,107	$305,021	$1,450,195	$86,079	$1,536,273	

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Statement—Continued.

County—Railroad.	Main Track, Including Right of Way and Improvements Thereon.				Second Main Track			Side or Turnout Track.			Rolling Stock.	Total assessment by the State Board of Equalization.	Equalized value of railroad property assessed by local assessors.	Equalized value of railroad property in county.
	Miles.	Feet.	Assess'd value, excluding buildings.	Value of buildings on right of way.	Miles.	Feet.	Assess'd value.	Miles.	Feet.	Assess'd value.	Assess'd value.			
Menard:														
Chicago & Alton	23	1,040	$139,181	$1,860				3	3,234	$9,031	$55,062	$205,134		$205,134
same (St. L., P. & N.)	8	676	48,768	560					3,708	1,756	19,293	70,377		70,377
Chicago, Peoria & St. Louis	21	2,371	53,623	1,784				4	4,638	9,757	34,289	99,453		99,453
Total	52	4,087	$241,572	$4,204				9	1,020	$20,544	$108,644	$374,964		$374,964
Mercer:														
Chicago, Burlington & Quincy	36	973	206,250	1,540				8	1,059	20,502	41,430	269,722	$ 47	269,769
Iowa Central	9	3,530	29,006	564				4	409	8,155	10,577	48,302	77	48,379
Rock Island & Peoria	14	2,776	82,797	1,400				4	1,339	10,634	17,555	112,386		112,386
St. Louis, Rock Island & Chicago	8	4,567	33,687	124					2,799	1,325	6,897	42,033		42,033
Total	69	1,286	$351,740	$3,628				17	326	$40,616	$76,459	$472,443	$124	$472,567
Monroe:														
Mobile & Ohio	27	417	105,608	4,950				4	4,333	9,641	36,848	157,047	196	157,243
Montgomery:														
Chicago, Peoria & St. L. (L. & M. Div.)	4	520	10,246						402	152	6,552	16,950	10	16,960
Cleveland, Cincinnati, Chicago & St. L.	34	1,353	164,430	1,875				12	2,071	30,980	79,410	276,695	350	277,045
Illinois Central (Litchfield Div.)	29	4,243	81,960	909				1	3,185	3,207	55,627	141,703	170	141,873
Jacksonville & St. Louis	20	2,729	51,292	1,899				3	1,154	6,437	9,178	68,806	60	68,866
Quincy, Carrollton & St. Louis		1,600	606						2,252	433	37	1,076	10	1,086
Toledo, St. Louis & Western	15	2,904	54,425	853				2	1,304	4,494	21,766	81,538	120	81,658
Wabash	20	383	90,326	2,887				5	2,192	13,538	31,684	138,435	300	138,735
Total	124	3,172	$453,286	$8,423				25	2,030	$59,241	$204,254	$725,203	$1,020	$726,223

MORGAN:														
Chicago & Alton	28	2,352	179,673	2,588				4	223	10,106	67,520	250,887	435	251,322
Chicago, Peoria & St. Louis	15	4,815	39,779	14,298				4	3,935	5,490	25,426	89,003	30	89,033
Jacksonville & St. Louis	19	198	47,594	912				3	3,753	7,422	8,516	64,444	40	64,484
St. Louis, Rock Island & Chicago	9	2,646	36,140	299				1	670	2,817	7,400	46,656	55	46,711
Wabash	30	521	135,444	7,780				7	1,965	18,430	47,509	209,163	226	209,389
Total	103	20	$429,630	$25,877				20	5,266	$48,265	$156,381	$660,153	$786	$660,939
MOULTRIE:														
Chicago & Eastern Illinois	17	4,103	71,108	735				2	631	4,239	41,647	117,729	110	117,839
Cleveland, Cincinnati, Chicago & St. L.	4	1,152	20,248	88					3,664	1,735	9,779	31,850	50	31,900
Peoria, Decatur & Mattoon	23	514	57,743	410				3	1,748	6,662	18,653	83,468	80	83,548
Terre Haute & Peoria	15	4,340	38,245	540				1	4,003	2,637	11,678	53,100	30	53,130
Wabash (C. & P.)	22	3,133	101,670	934				1	2,659	3,759	35,663	142,026	510	142,536
Total	83	3,283	$289,014	$2,707				9	2,145	$19,032	$117,420	$428,173	$780	$428,953
OGLE:														
Chicago, Burlington & Northern	18	3,327	93,151	709				3	1,079	8,011	33,840	135,711	691	136,402
same (C. & I.)		1,365									470	470		470
Chicago & Iowa	51	278	255,263	3,060				8	2,659	21,259	37,369	316,951	213	317,164
Chicago Great Western	27	5,212	142,734	10,100				8	3,459	21,638	41,714	216,186	387	216,573
Chicago, Milwaukee & St. Paul	39	3,586	168,644	3,499	39	3,596	$107,139	7	3,466	19,141	41,074	339,497	469	339,966
same (C. & I.)	3	2,769									3,648	3,648		3,648
Chicago & Northwestern	11	1,777	64,052	666	11	1,777	30,609	5	1,782	13,344	17,788	126,459	55	126,514
Total	152	2,484	$723,844	$18,034	51	93	$137,748	33	1,885	$83,393	$175,903	$1,138,922	$1,815	$1,140,737
PEORIA:														
Atchison, Topeka & Santa Fé	28	1,606	169,825	16,928				17	2,738	43,796	31,232	261,781	2,549	264,330
Chicago, Burlington & Quincy	44	4,780	255,960	3,078				16	4,006	41,897	51,416	352,351	4,695	357,046
Chi., Rock Island & Pacific (Peo. Br.)	22	1,423	167,021	18,250				12	4,369	32,069	25,696	243,036	2,200	245,236
Iowa Central	19	3,151	58,790	426				7	4,567	15,730	21,438	96,384	3,321	99,705
Peoria, Decatur & Mattoon (P. & P. U.)	9	1,726									7,441	7,441		7,441
Peoria & Pekin Terminal	7	2,650	67,517	3,486				3	359	7,670	7,877	86,550		86,550
Peoria & Pekin Union	10	447	201,693	31,550	2	374	$10,354	41	2,683	124,525	42,956	411,078	2,120	413,198
Rock Island & Peoria	26	4,633	153,202	1,270				11	3,117	28,976	32,482	215,940	433	216,363
Toledo, Peoria & Western	11	4,416	42,611	6,895				2	2,963	5,122	15,598	70,226	980	71,206
same (P. & P. U.)	8	1,267									10,859	10,859		10,859
Total	188	4,379	$1,116,619	$81,883	2	374	$10,354	113	3,682	$299,785	$246,995	$1,755,636	$16,298	$1,771,934
PERRY:														
Illinois Southern	1	4,920	3,477								676	4,153		4,153
Mobile & Ohio	2	3,062	10,062								3,511	13,573		13,573
St. Louis, Alton & Terre Haute	36	4,503	140,041	2,769				8	2,947	17,972	73,127	233,809	861	244,770
Wabash, Chester & Western	26	4,788	48,432	330				1	2,793	2,293	9,576	60,631	708	61,339
Total	68	1,433	$202,012	$3,099				10	460	$20,265	$86,890	$312,266	$1,569	$313,835

Statement—Continued.

County—Rail-road.	Main Track, Including Right of Way and Improvements Thereon.				Second Main Track			Side or Turnout Track.			Rolling Stock.	Total assessment by the State Board of Equalization.	Equalized value of railroad property assessed by local assessors.	Equalized value of railroad property in county.
	Miles.	Feet.	Assess'd value, excluding buildings.	Value of buildings on right of way.	Miles.	Feet.	Assess'd value.	Miles.	Feet.	Assess'd value.	Assess'd value.			
Piatt:														
Chicago, Havana & Western	28	1,661	$ 56,629	$3,760				2	4,298	$ 5,628	$ 9,301	$ 75,318		$ 75,318
Indiana, Decatur & Western	15	211	45,120	1,610				1	2,299	3,588	29,814	80,132		80,132
Peoria & Eastern	8	1,210	24,688	68				1	2,987	3,132	8,292	36,180		36,180
Wabash	15	2,373	69,522	4,725				7	2,591	18,727	24,386	117,360		117,360
same (C. & P.)	35	751	158,140	2,903				5	5,148	14,937	55,471	231,451		231,451
Total	102	926	$354,099	$13,066				19	1,483	$46,012	$127,264	$540,441		$540,441
Pike:														
Chicago & Alton	23	5,073	143,765	3,078				5	457	12,716	56,875	216,434	$1,128	217,562
Chicago, Burlington & Quincy	29	2,405	167,896	418				1	2,839	3,844	33,726	205,884	458	206,342
Wabash	1	1,584	5,850								2,052	7,902	93	7,995
same (Han. Bridge)	1	4,146	8,033	90					1,466	694	2,818	11,635	200	11,835
same (H. & N.)	45	501	202,927	4,127				7	4,359	19,564	71,180	297,796	1,525	299,323
same (C., B. & Q.)	2	4,752									4,578	4,578		4,578
Total	104	2,621	$528,471	$7,713				14	3,841	$36,818	$171,229	$744,231	$3,404	$747,635
Pulaski:														
Cairo, Vincennes & Chicago	19	4,487	53,594	510				2	4,225	5,600	15,966	75,670		75,670
Chi., Paducah & Memphis (E., I. & M.)	17	849									8,143	8,143		8,143
Eastern Illinois & Missouri	17	849	60,063	435				1	537	1,653		62,151		62,151
Mound City	2	4,320	17,136	960					4,727	3,581	3,000	24,677		24,677
Total	57	145	$130,793	$1,905				4	4,209	$10,834	$27,109	$170,641		$170,641
Putnam:														
Chi., Rock Island & Pacific (Peo. Br.)	6	1,426	47,040	100				1	2,597	3,730	7,237	58,107	$ 40	58,147
Indiana, Illinois & Iowa	16	724	51,639	3,480				3	2,518	8,692	15,440	79,251	489	79,740
Total	22	2,150	$98,679	$3,580				4	5,115	$12,422	$22,677	$137,358	$529	$137,887

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RANDOLPH:														
Illinois Southern	45	4,572	82,559	2,251				9	3,618	14,528	16,063	115,401	96	115,497
Mobile & Ohio	31	1,027	121,659	3,050				6	4,935	13,869	42,448	181,026		181,026
St. Louis, Alton & Terre Haute	6	2,132	24,334	548				1	1,370	2,645	12,707	40,234		40,234
Wabash, Chester & Western	19	422	34,344	850				3	4,453	5,766	6,791	47,751		47,751
Total	102	2,873	$262,896	$6,699				21	3,816	$36,808	$78,009	$384,412	$96	$384,508
RICHLAND:														
Baltimore & Ohio Southwestern	20	2,916	61,657	1,190				5	2,228	13,555	46,781	123,183	65	123,248
Indiana, Decatur & West'n (O. R. Div.)				340				1	2,068	2,088		2,428	520	2,948
Peoria, Decatur & Mattoon (Mat. & Ev.)	20	644	50,305	385				2	2,209	4,837	16,250	71,777		71,777
Total	40	3,560	$111,962	$1,915				9	1,226	$20,480	$63,031	$197,388	$585	$197,973
ROCK ISLAND:														
Chicago, Milwaukee & St. P.	22	285	93,729	960				5	3,045	13,942	22,828	131,459	329	131,788
same (D. R. I. & N. W.)	15	1,848									15,889	15,889		15,889
Chicago, Rock Island & Pacific	11	1,390	84,474	14,350	11	1,390	33,790	35	1,455	88,189	12,996	233,799	590	234,389
Davenport, Rock Island & Northwestern	13	3,076	67,913	4,716				5	2,666	13,762	9,236	95,627	75	95,702
same (C. B. & Q.)		2,799									1,041	1,041		1,041
Rock Island & Peoria	25	1,471	144,088	5,950				10	1,840	25,871	30,550	206,459	174	206,633
St. Louis, Rock Island & Chicago	26	189	98,936	14,936				16	863	40,409	20,257	174,538	392	174,930
Total	115	498	$489,140	$40,912	11	1,390	$33,790	72	4,589	$182,173	$112,797	$858,812	$1,560	$860,372
SALINE:														
Cairo, Vincennes & Chicago	28	2,336	76,795	1,220				4	4,196	9,589	22,877	110,481	2,540	113,021
Louisville & Nashville	12	4,273	49,956	360					3,184	1,206	16,113	67,635	545	68,180
St. Louis, Alton & Terre Haute	16	4,468	64,016	123					3,013	1,198	33,428	98,765	470	99,235
Total	58	517	$190,767	$1,703				5	5,113	$11,993	$72,418	$276,881	$3,555	$280,436
SANGAMON:														
Baltimore & Ohio Southwestern	34	2,905	103,651	1,620				8	2	20,001	78,643	203,915	40	203,955
same (I. C.)		3,077									1,326	1,326		1,326
Chicago & Alton	34	2,721	207,092	13,952				10	4,134	26,957	81,928	329,929	63	329,992
same (St. L. P. & N.)	12	1,028	73,168	6,140				4	340	10,161	28,946	118,415	13	118,428
Chicago, Peoria & St. Louis	33	919	82,935	16,115				8	4,479	17,697	53,032	169,779	1,975	171,754
Chicago & Springfield	15	2,578	46,465	17,554				7	1,256	18,095	9,328	91,442	779	92,221
Illinois Central (Litchfield Div.)	19	2,832	53,725	1,065					4,840	1,833	36,464	93,087	29	93,116
Jacksonville & St. Louis	8	3,079	21,458	152					3,805	1,441	3,839	26,890		26,890
Pawnee	9		9,000	500					2,300	218	3,950	13,668		13,668
Wabash	44	2,562	200,184	36,547				18	3,679	46,742	70,218	353,691	7,949	361,640
Total	212	581	$797,678	$93,645				59	3,715	$143,145	$367,674	$1,402,142	$10,848	$1,412,990
SCHUYLER:														
Chicago, Burlington & Quincy	11	2,060	64,924	757				1	401	2,690	13,042	81,413	120	81,533
St. Louis, Rock Island & Chicago	13	2,946	51,520	258				1	2,846	3,847	10,549	66,174	257	66,431
Total	24	5,006	$116,444	$1,015				2	3,247	$6,537	$23,591	$147,587	$377	$147,964

Statement—Continued.

County—Railroad.	Main Track. Including Right of Way and Improvements Thereon.				Second Main Track			Side or Turnout Track			Rolling Stock.	Total assessment by the State Board of Equalization	Equalized value of railroad property assessed by local assessors	Equalized value of railroad property in county
	Miles	Feet	Assess'd value, excluding buildings.	Value of buildings on right of way.	Miles	Feet	Assess'd value.	Miles	Feet	Assess'd value.	Assess'd value.			
Scott:														
Chicago & Alton	3	4,274	$22,857	$ 134					2,878	$1,363	$ 9,042	$33,396	$ 40	$33,436
St. Louis, Rock Island & Chicago	18	2,541	70,729	772				2	3,159	6,496	14,379	91,876	406	92,282
Wabash	10	2,229	46,900	2,918				3	113	7,563	16,451	73,822	590	74,412
same (H. & N.)	4	2,665	20,271	630							7,110	28,011	50	28,061
Total	37	1,149	$160,257	$4,454				6	870	$15,412	$46,982	$227,105	$1,086	$228,191
Shelby:														
Baltimore & Ohio Southwestern	17	3,866	53,197	250				1	3,929	4,360	40,362	98,169	50	98,219
Chicago & Eastern Illinois	25	2,787	102,111	1,733				7	3,559	15,348	59,805	178,997	1,422	180,419
Cleveland, Cincinnati, Chicago & St. L.	26	2,122	126,729	833				4	470	10,222	61,203	198,987	714	199,701
Toledo, St. Louis & Western	30	2,532	166,679	1,265				2	3,900	5,477	42,665	156,086	460	156,546
Wabash (C. & P)	18	2,890	83,463	765				1	699	2,831	29,276	116,335	340	116,675
Total	118	3,637	$472,179	$4,[illegible]				17	1,997	$38,238	$233,311	$748,574	$2,986	$751,560
Stark:														
Chicago, Burlington & Quincy	20	4,892	119,281	974				2	1,138	5,539	23,960	149,754	130	149,884
Rock Island & Peoria	19	1,606	110,034	1,950				2	991	5,469	23,330	140,783	350	141,133
Total	40	1,218	$229,315	$2,924				4	2,129	$11,008	$47,290	$290,537	$480	$291,017

ST. CLAIR:														
Baltimore & Ohio Southwestern	27	1,291	$1,733	6,755				20	4,617	52,186	62,014	202,688	36,246	238,934
Belleville & Carondelet	16	3,776	41,788	375				2	3,676	4,044	14,440	60,647		60,647
Chicago & Alton	1	2,440	8,773	2,058	1	2,289	$4,014	8	3,063	22,397	3,471	40,713	126	40,839
Chicago, Peoria & St. Louis	1	2,223	3,557	1,000				1	1,257	2,476	2,275	9,308	300	9,608
Cleveland, Cincinnati, Chicago & St. L.	2	1,096	10,596	7,922				13	741	32,851	5,117	56,489	9,160	65,649
East St. Louis & Carondelet	9	588	45,557					9	5,208	24,966	15,520	86,043	3,018	89,061
East St. Louis Connecting	1	790	22,992		1	790	17,244	31	445	388,554	27,000	455,790		455,790
Louisville & Nashville	35	1,565	137,656	12,256				21	1,853	42,702	44,401	237,015	7,900	244,915
Mobile & Ohio	14	415	54,907	7,500				14	464	28,176	19,158	109,741	617	110,388
St. Louis, Alton & Terre Haute	40	3,387	154,438	9,658				26	1,705	55,278	80,645	300,019	20,100	320,119
St. Louis & Belleville Electric	10	1,334	20,505	2,000	10	1,334	20,505		1,750	665	5,520	49,193		49,193
St. Louis, Belleville & Southern	13	1,891	26,716	767				2	2,525	4,957	19,400	51,840	401	52,241
St. Louis, Belleville & Suburban	10	124	20,047	1,000	10	124	20,047		1,610	610	8,400	50,104		50,104
St. Louis & O'Fallon		3,162							1,500	710	1,820	21,848		21,848
St. Louis, Rock Island & Chicago	7	3,840	19,318					7	2,290	18,584	748	27,634	240	27,874
same (J. & St. L.)		5,079	3,655	4,647							467	467		467
St. Louis, Troy & Eastern	7	732	2,847								2,015	4,862		4,862
Southern	36	4,465	103,168	8,940				35	1,676	70,635	52,509	235,252	18,002	253,254
Terminal Ry. of East St. Louis	1	500	27,367	2,780				18	2,323	100,800	23,440	154,387	240	154,627
Terre Haute & Indianapolis	10	1,232	56,283	15,925				16	3,737	41,769	29,648	143,625	12,145	155,770
Toledo, St. Louis & Western	2	370	7,246	1,705				2	2,770	5,049	2,898	16,898	3,410	20,308
Wabash	2	816	9,636	9,580				12	1,174	30,556	3,401	53,232	120	53,352
Collinsville, Caseyville & E. St. L. Elec	5	3,300	8,438						1,150	327	1,226	9,991		9,991
Total	251	2,192	$867,282	$94,871	22	4,537	$61,810	241	14	$928,290	$425,533	$2,377,786	$112,055	$2,489,841
STEPHENSON:														
Chicago Greatwestern	28	4,140	146,799	6,060				5	463	12,719	42,902	208,480	863	209,343
Chicago, Madison & Northern	39	3,817	198,614	33,980				13	4,160	34,470	14,022	281,086	826	281,912
Chicago, Milwaukee & St. Paul	23	5,179	101,919	4,116				7	3,263	19,045	24,823	149,903	1,231	151,134
Chicago & Northwestern	11	4,266	66,715	1,280				2	2,675	6,267	18,528	92,790	510	93,300
Total	104	1,562	$514,047	$45,436				29	1	$72,501	$100,275	$732,259	3,430	$735,689
TAZEWELL:														
Atchison, Topeka & Santa Fé	21	1,762	128,002	2,318				3	1,604	8,259	23,541	162,120	2,309	164,429
Chicago & Alton	24	795	144,903	2,420				2	5,017	7,375	57,325	212,023	386	212,409
same (St. L., P. & N.)	21	130	126,148	3,096				3	212	7,600	49,905	186,749	30	186,779
Chicago, Peoria & St. Louis	11	935	27,943	4,008				3	3,912	7,482	17,868	57,301	152	57,453
Lake Erie & Western	16	244	64,185	3,345				1	4,722	4,736	27,914	100,180	40	100,220
Peoria, Decatur & Mattoon	21	243	52,615	1,080				5	1,652	10,626	16,996	81,317	205	81,522
Peoria & Eastern	21	856	63,486	665				11	112	22,042	21,323	107,511	36	107,547
Peoria & Pekin Terminal		1,220	2,060	2,400					3,462	1,639	243	6,362		6,362
Peoria & Pekin Union	8	184	160,697	450	6	4,111	$33,893	10	1,868	31,061	34,224	260,325	1,468	261,693
Terre Haute & Peoria	28	4,821	69,391	1,320				3	2,605	5,240	21,187	97,138	136	97,274
same (T. P. & W.)	5	528									3,737	3,737		3,737
Toledo, Peoria & Western	15	4,010	56,734	1,080				2	2,161	4,819	20,768	83,401	65	83,466
Total	193	5,168	$896,184	$22,177	6	4,111	$33,893	48	927	$110,879	$295,031	$1,358,164	$4,727	$1,362,891

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Statement—Continued.

County—Railroad.	Main Track, Including Right of Way and Improvements Thereon.				Second Main Track			Side or Turnout Track.			Rolling Stock.	Total assessment by the State Board of Equalization	Equalized value of railroad property assessed by local assessors	Equalized value of railroad property in county
	Miles	Feet	Assess'd value, excluding buildings.	Value of buildings on right of way.	Miles	Feet	Assess'd value.	Miles	Feet	Assess'd value.	Assess'd value.			
UNION:														
Chicago & Texas	17	135	$37,456	$ 205				2	190	$3,461	$ 6,623	$ 47,745	$40	$ 47,785
Mobile & Ohio	22	174	85,928	2,700				3	3,003	7,138	29,982	125,748		125,748
Total	39	309	$123,384	$2,905				5	3,193	$10,599	$36,605	$173,493	$40	$173,533
VERMILION:														
Cairo, Vincennes & Chicago	15	1,330	41,180	375				1	5,233	3,962	12,268	57,805	105	57,910
Chicago & Eastern Illinois	95	2,211	381,675	20,991	25	1,170	$75,665	59	5,161	119,955	223,542	821,828	14,434	836,262
Chicago, Lake Shore & East. (C. & E. I. same (L. E. & W.)	95	2,211									21,061	21,061		21,061
	8	963									1,781	1,781		1,781
Indiana, Decatur & West'n (O. Riv. Div.)	2	808	3,689	220					3,770	1,071	373	5,353	20	5,373
Lake Erie & Western	21	5,055	87,830	11,130				7	3,998	19,393	38,197	156,550	686	157,236
Peoria & Eastern	22	772	66,439	1,102				9	562	18,213	22,315	108,069	300	108,369
Rantoul	21	958	38,126	1,400				1	1,362	1,258	797	41,581	140	41,721
Toledo, St. Louis & Western	8	4,910	31,255	275				1	1,270	2,481	12,509	46,511	80	46,591
Wabash	25	4,472	116,331	11,318				18	5,192	47,458	40,798	215,885	950	216,835
Total	316	2,009	$766,505	$46,811	25	1,170	$75,665	101	148	$213,811	$373,632	$1,476,424	$16,715	$1,493,139
WABASH:														
Cairo, Vincennes & Chicago	25	363	67,686	14,005				7	571	14,216	20,164	116,071	1,652	117,723
Southern	12	3,304	35,352	350				1	4,997	3,893	17,993	57,588	35	57,623
Total	37	3,667	$103,038	$14,355				9	288	$18,109	$38,157	$173,659	$1,687	$175,346
WARREN:														
Atchison, Topeka & Santa	20	1,974	122,243	4,545				4	3,937	11,864	22,482	161,134	749	161,883
Chicago, Burlington & Quincy	50	4,617	118,964	1,685	19	1,457	$52,045	7	5,028	19,881	23,901	216,496	701	217,197
Iowa Central	29	2,547	88,447	4,344				7	67	14,025	32,252	139,068	40	139,108
St. Louis, Rock Island & Chicago	34	2,090	130,661	1,180				6	3,022	16,431	26,753	175,025	717	175,742
Total	105	608	$460,335	$11,754	19	1,457	$52,045	26	1,494	$62,201	$105,388	$691,723	$2,207	$693,930

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WASHINGTON:															
Illinois Southern	27	4,065	49,986	410				2	1,214	3,344	9,726	63,466			63,466
Louisville & Nashville	28	2,968	111,392	2,940				3	1,134	6,430	35,930	156,692	1,205		157,897
Total	56	1,753	$161,378	$3,350				5	2,348	$9,774	$45,656	$220,158	$1,205		$221,363
WAYNE:															
Baltimore & Ohio Southwestern	25	1,829	76,039	915				2	1,021	5,512	57,693	140,159	60		140,219
Southern	30	2,740	85,453	770				2	1,806	4,684	43,493	134,400	139		134,539
Total	55	4,569	$161,492	$1,685				4	2,887	$10,196	$101,186	$274,559	$199		$274,758
WHITE:															
Baltimore & Ohio Southwestern	24	3,579	74,033	510				2	1,382	5,654	56,172	136,369			136,369
Cairo, Vincennes & Chicago	32	4,104	88,499	945				2	4,253	5,611	26,364	121,419			121,419
Louisville & Nashville	21	906	82,614	2,864				5	3,276	11,241	26,647	123,346			123,346
same (C., V. & C.)		1,800									429	429			429
Peoria, Decatur & Mattoon (Mat. & Ev.)	2	1,455	5,689	185					3,724	1,411	1,838	9,123			9,123
Total	81	1,344	$250,835	$4,484				11	2,075	$23,917	$111,450	$390,686			$390,686
WHITESIDE:															
Chicago, Burlington & Northern	5	435	25,412						1,858	880	9,232	35,524			35,524
same (C., B. & Q.)		3,520									1,211	1,211			1,211
Chicago Burlington & Quincy	41	1,248	235,047	3,625				10	3,692	26,748	47,215	312,635	$ 275		312,910
Chicago, Milwaukee & St. Paul	12	4,926	59,215	418				1	2,523	3,695	14,423	77,751	50		77,801
Chicago & Northwestern	31	12	175,163	4,458	31	12	$83,706	15	2,003	38,448	48,645	350,429	9,024		359,444
St. Louis, Rock Island & Chicago	22	85	83,661	414				2	564	5,267	17,130	106,472	33		106,505
same (C. & N. W.)	5	1,441									4,103	4,103			4,103
Total	119	1,107	$578,498	$8,915	31	12	$83,706	30	80	$75,038	$141,959	$888,116	$9,382		$897,498
WILL:															
Atchison, Topeka & Santa Fé	29	60	174,068	9,360	4	1,531	12,870	13	2,418	33,645	32,013	261,956	$8,465		$270,421
Chicago & Alton	50	1,532	301,741	7,662	11	517	31,074	28	3,184	71,508	119,372	531,357	4,187		535,544
Chicago & Eastern Illinois	11	5,165	47,913	1,235	11	5,165	35,934	2	2,452	4,929	28,062	118,673	166		118,839
Chicago, Lake S. & Eastern (C. & E. I.)	11	5,165									2,644	2,644	1,200		3,844
same (E., J. & E.)	16	4,050									3,701	3,701			3,701
Chicago, Rock Island & Pacific	24	3,993	185,672	4,200	24	3,993	74,288	21	1,806	53,355	28,565	346,000	5,327		351,327
Elgin, Joliet & Eastern	50	1,307	226,625	27,819				40	3,553	101,692	106,653	462,779	22,157		484,936
Joliet & N. Indiana (Branch Mich. Cent.)	15	1,839	61,293	8,198				16	1,913	40,905		110,496	2,554		113,050
Michigan Central (Joliet & Nor. Ind.)	15	1,839									24,692	24,692			24,692
Wabash (C. & S.)	29	4	130,504	4,734				7	834	17,895	45,776	198,909	1,258		200,167
Total	254	4,434	$1,127,916	$63,208	52	646	$154,146	130	320	$323,919	$391,478	$2,060,667	$45,314		$1,105,981

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Statement—Concluded.

County—Railroad.	Main Track, Including Right of Way and Improvements Thereon.				Second Main Track			Side or Turnout Track.			Rolling Stock.	Total assessment by the State Board of Equalization.	Equalized value of railroad property assessed by local assessors.	Equalized value of railroad property in county.
	Miles.	Feet.	Assess'd value, excluding buildings.	Value of buildings on right of way.	Miles.	Feet.	Assess'd value.	Miles.	Feet.	Assess'd value.	Assess'd value.			
Williamson:														
Cairo, Vincennes & Chicago	1	4,612	$ 5,058						1,617	$ 613	$ 1,507	$ 7,178		$ 7,178
Chicago, Paducah & Memphis	8	4,144	21,962	$1,488				12	2,238	24,848	4,168	52,466		52,466
Chicago & Texas	12	3,446	27,836	120				1	2,520	2,511	4,922	35,389		35,389
Chi., Paducah & Memphis (E., I & M.)	9	5,202									4,738	4,738		4,738
Eastern Illinois & Missouri	9	5,202	34,948	118				1	28	1,508		36,574		36,574
St. Louis, Alton & Terre Haute	25	2,052	96,477	1,347				3	3,586	7,727	50,378	155,929		155,929
Total	68	3,538	$186,281	$3,073				18	4,711	$37,207	$65,713	$292,274		$292,274
Winnebago:														
Chicago & Iowa	8	3,283	43,109	2,225				6	4,608	17,182	6,311	68,827	$3,518	72,345
Chicago, Madison & Northern	25	4,564	129,322	10,091				14	1,274	35,603	9,130	184,146	3,070	187,216
Chicago, Milwaukee & St. Paul	35	55	148,794	2,555				11	4,504	29,633	36,239	217,221	1,901	219,122
same (C. & L.)	8	2,170									8,902	8,902		8,902
Chicago & Northwestern	45	963	255,280	8,589				13	3,558	34,327	70,895	369,091	1,653	370,744
Total	123	1,475	$576,505	$23,460				46	3,684	$116,745	$131,477	$848,187	$10,142	$858,329
Woodford:														
Atchison, Topeka & Santa Fe	20	3,680	124,182	2,280				2	3,932	6,862	22,838	156,162	500	156,662
Chicago & Alton	13	893	79,015	1,159				1	846	2,901	31,259	114,333	47	114,380
Kankakee & Southwestern	5	1,686	14,362	336					1,588	601	3,647	18,946	4	18,950
Lake Erie & Western	9	4,257	39,225	1,965					4,548	2,153	17,059	60,402	4	60,406
Toledo, Peoria & Western	18	1,634	65,914	1,525				2	3,336	5,264	24,131	96,834	25	96,859
Total	67	1,590	$322,698	$7,264				7	3,690	$17,781	$98,934	$446,677	$580	$447,257
*Grand aggregate	11,057	5,104	49,638,780	3,398,112	1,355	4,706	$4,439,658	4,178	4,155	10,552,397	15,152,831	†3,181,778	†2,814,275	85,996,053

*The aggregate mileage of main track embraces the mileage of leased track on which rolling stock only is used.

†Does not include Chicago & DesPlaines Valley, equalized at $3,000; Aurora, Elgin & Chicago, at $200, and the Toluca, Marquette & Northern at $453.

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Tabular statement showing the Assessed Value of Property, the Average Rate Per Cent of Equalization to the Equalized Value of Property Assessed, for the Year 1901.

Counties.	Assessed in Counties by Local Assessors.					Assessed by State Board of Equalization.		
	Assessed value of lands, lots and personal property, including railroad property, assessed by local assessors.	Average rate per cent of addition or deduction. Add.	Average rate per cent of addition or deduction. Ded.	Net amount added.	Net amount deducted.	Equalized value of property assessed by local assessors.	Equalized value of railroad track, rolling stock, and improvements on right of way.	Equalized value of capital stock of corporations other than railroads.	Total equalized value of property assessed for the year 1901.
Adams	$ 11,149,065					$11,149,065	$800,246	$78,005	$12,027,316
Alexander	1,814,511	2		$ 28,139		1,842,650	361,477	28,640	2,232,767
Bond	1,474,396	21		316,015		1,790,411	349,955		2,140,366
Boone	3,876,141		1		$ 57,717	3,818,424	396,835	12,000	4,217,259
Brown	1,493,380	11		165,810		1,659,190	150,358	500	1,810,048
Bureau	9,176,998	1		117,948		9,294,946	1,451,646		10,746,592
Calhoun	1,021,210					1,021,210			1,021,210
Carroll	3,857,167					3,857,167	766,167	2,500	4,625,834
Cass	3,759,196		3		102,024	3,657,172	326,272		3,983,444
Champaign	13,448,664		9		1,326,581	12,122,083	626,591	49,110	12,797,784
Christian	6,993,028					6,993,028	479,260	7,200	7,479,488
Clark	2,146,814	9		205,994		2,352,808	379,401		2,732,209
Clay	1,779,566		3		54,859	1,724,707	293,984		2,018,691
Clinton	2,141,708	6		129,341		2,271,049	400,947	6,900	2,678,896
Coles	5,566,769		1		68,212	5,498,557	509,747	9,000	6,017,304
Cook	365,191,329					365,191,329	*23,056,531	19,942,100	408,189,960
Crawford	2,150,586		4		86,698	2,064,890	134,024		2,198,914
Cumberland	1,254,443	11		141,736		1,396,179	299,302		1,695,481
DeKalb	8,171,823	1		92,809		8,264,632	1,010,091	10,500	9,285,223
DeWitt	4,261,784	3		116,367		4,378,151	294,351		4,672,502
Douglas	4,292,938	2		86,650		4,379,588	396,165		4,775,753
DuPage	5,852,742		5		305,800	5,546,942	1,035,230		6,582,172
Edgar	6,067,565					6,067,565	675,421	3,050	6,745,986
Edwards	1,191,054		1		14,288	1,176,766	135,957		1,312,723
Effingham	2,138,337					2,138,337	590,434	4,740	2,733,511
Fayette	2,837,105	11		324,015		3,161,120	389,282	750	3,551,152
Ford	5,486,987		3		152,923	5,334,064	440,967		5,775,031
Franklin	1,150,801	14		166,011		1,316,812	221,991		1,538,803
Fulton	7,283,571		2		170,822	7,112,749	754,454	1,000	7,868,203

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Statement.—Continued.

Counties.	Assessed in Counties by Local Assessors.					Assessed by State Board of Equalization.		Total equalized value of property assessed for the year 1901.
	Assessed value of lands, lots and personal property, including railroad property, assessed by local assessors.	Average rate per cent of addition or deduction. Add.	Ded.	Net amount added.	Net amount deducted.	Equalized value of property assessed by local assessors.	Equalized value of railroad track, rolling stock, and improvements on right of way.	Equalized value of capital stock of corporations other than railroads.	
Gallatin	$ 1,180,785	7		$ 88,751		$ 1,269,536	$ 172,661		$ 1,442,197
Greene	3,686,565					3,686,565	535,018		4,221,583
Grundy	4,763,567		5		$ 242,224	4,521,343	908,611	$ 1,000	5,430,954
Hamilton	1,063,912	32		336,856		1,400,768	197,683		1,598,451
Hancock	6,505,497					6,505,497	728,772	29,700	7,263,969
Hardin	319,905	24		78,232		398,137			398,137
Henderson	2,617,443					2,617,443	574,909		3,192,352
Henry	8,711,141	1		100,949		8,812,090	1,029,382	6,400	9,847,872
Iroquois	10,664,943		15		1,575,328	9,089,615	813,022		9,902,637
Jackson	2,119,602	18		384,190		2,503,792	457,587	13,570	2,974,949
Jasper	1,818,023		28		51,698	1,766,325	172,250		1,938,575
Jefferson	2,197,578		2		44,038	2,153,540	389,890		2,543,430
Jersey	2,183,990	12		270,060		2,454,050	320,979	32,000	2,807,029
JoDaviess	5,177,966		5		263,127	4,914,839	511,494	1,000	5,427,333
Johnson	770,792	11		86,569		857,361	340,986		1,198,347
Kane	13,529,659	1		189,191		13,718,850	1,411,769	72,500	15,203,119
Kankakee	5,577,174	15		834,630		6,411,804	964,904	5,100	7,381,808
Kendall	3,384,848		4		127,349	3,257,499	314,073	1,200	3,572,772
Knox	9,395,246					9,395,246	1,142,986	73,500	10,611,732
Lake	7,099,984	7		504,710		7,504,694	1,086,271	5,000	8,695,965
LaSalle	16,938,247		2		378,017	16,560,230	1,830,988	27,800	18,419,018
Lawrence	1,603,254					1,603,254	213,638		1,816,892
Lee	8,393,893		7		567,189	7,826,704	652,136	13,000	8,491,840
Livingston	12,151,071		5		617,015	11,534,056	1,596,257	7,400	13,137,713
Logan	6,375,190	3		216,545		6,591,735	682,387	10,000	7,284,122
Macon	9,894,677		4		433,949	9,460,728	560,447	68,000	10,089,175
Macoupin	5,863,147	5		296,969		6,160,116	989,199	7,000	7,156,315
Madison	10,046,606	1		142,246		10,188,852	2,075,045	64,700	12,328,597
Marion	2,576,197	2		51,976		2,628,173	302,998	4,200	2,935,371
Marshall	3,970,268					3,970,265	585,406		4,555,671
Mason	3,348,167		5		159,744	3,188,423	419,301	400	3,608,124

Massac	963,673		5		44,.50	919,523	166,629		1,086,152
McDonough	6,117,727					6,117,727	503,251		6,620,978
McHenry	6,741,168		2		111,863	6,629,305	911,382	2,600	7,543,287
McLean	17,893,827		3		504,336	17,389,491	1,450,195	89,100	18,928,786
Menard	3,293,488		1		44,407	3,249,081	374,964		3,624,045
Mercer	4,716,749	2		90,791		4,807,540	472,443	20,000	5,299,983
Monroe	1,984,155		2		27,151	1,957,004	157,047	1,000	2,115,051
Montgomery	4,778,279					4,778,279	725,203	11,000	5,514,482
Morgan	7,957,727					7,957,727	660,153	25,988	8,643,868
Moultrie	3,192,083					3,192,083	428,173		3,620,256
Ogle	7,705,417					7,705,417	1,138,922	3,000	8,847,339
Peoria	16,295,314					16,295,314	1,755,636	134,000	18,184,950
Perry	1,783,916	2		35,529		1,819,445	312,266	6,500	2,138,211
Piatt	5,174,868		9		452,187	4,722,681	540,.41		5,263,122
Pike	4,229,442		4		189,928	4,039,514	744,231	350	4,784,095
Pope	814,354	16		129,293		943,647			943,647
Pulaski	948,411	2		17,403		965,814	170,641	5,000	1,141,455
Putnam	1,093,122	7		78,174		1,177,296	137,358		1,314,654
Randolph	2,835,182	5		131,902		2,967,084	384,412	6,500	3,357,996
Richland	1,598,191					1,598,191	197,398	3,000	1,798,579
Rock Island	7,652,616					7,652,616	858,812	23,500	8,534,928
Saline	1,438'549	4		54,109		1,492,658	276,881	100	1,769,639
Sangamon	15,370,305	2		339,334		15,709,639	1,402,142	56,000	17,167,781
Schuyler	2,379,880					2,379,880	147,587	300	2,527,767
Scott	1,915,968		4		67,838	1,848,130	227,105		2,075,235
Shelby	4,667,040	7		306,074		4,973,114	748,574		5,721,688
Stark	3,145,185		8		244,939	2,900,247	290,537		3,190 784
St. Clair	13,236,233	3		435,269		13,671,502	2,377,796	233,700	16,282 988
Stephenson	7,078,612	3		190,300		7,266,912	732,259*	67,540	8,066,711
Tazewell	6,631,587		1		83,377	6,548,210	1,358,164	17,250	7,923,624
Union	1,789,536					1,789,536	173,493	500	1,963,529
Vermilion	11,955,982					11,955,982	1,476,424	2,000	13,434,406
Wabash	1,426,194		2		25,527	1,400,667	173,659		1,574,326
Warren	5,971,548					5,971,548	691,723	6,000	6,669,271
Washington	2,286,170	12		253,634		2,539,804	220,158		2,759,962
Wayne	1,768,865	22		396,379		2,165,244	274,559		2,439,803
White	2,004,020	12		231,003		2,235,023	390,686	1,000	2,626,709
Whiteside	7,015,932	2		166,807		7,182,739	988,116	34,500	8,205,355
Will	14,201,641					14,201,641	2,060,057	85,500	16,347,898
Williamson	1,860,303	15		266,942		2,127,325	292,274	100	2,419,699
Winnebago	10,5[illegible],626		2		230,950	10,354,676	848,187	62,500	11,265,363
Woodford	5,974,550		4		258,381	5,716,169	446,677		6,162,846
Totals	$891,936,529			$8,595,652	$9,083,635	$891,448,546	886,285,340	$21,497,943	8999,231,829

* Includes $3,103,562 railroad capital stock assessment.

(Endorsed) Filed Nov 19 1904
Marshall C. Campbell. Clerk

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1654 And on to-wit: the first day of December, 1904, came the Defendants in said entitled cause by their solicitors and filed in the clerk's office of said Court their certain Exceptions to the Master's Report in words and figures following to-wit:

1655 *Exceptions to Master's Report.*

In the Circuit Court of the United States, Northern District of Illinois, Northern Division.

No. 26609.

CHICAGO UNION TRACTION COMPANY
vs.
S. B. RAYMOND ET AL.

Exceptions taken by the above named defendants to the report of the Master in Chancery, to whom this cause was referred to take proofs and to report the evidence and his conclusions of fact by an order made herein on January 15, 1903, and which report bears date November 12, 1904.

First Exception. For that the said Master has found that the material allegations of complainant's bill are sustained by the proofs.

Second Exception. For that the said Master did not find that the material allegations of complainant's bill are not sustained by the proofs.

Third Exception. For that the Master has found and reported that nothing appears in the testimony returned with his report and that no argument has been submitted which tends to establish any different state of facts than those shown before him upon a former hearing of this case.

1656 Fourth Exception. For that the Master has found and reported that there is nothing due from the complainant herein.

Fifth Exception. For that the Master has not found and reported that there is due from the complainant in this cause the sum of $904,463.38 as general taxes for 1900.

Sixth Exception. For that the Master has recommended that an order be entered by the court in conformity with his finding.

Seventh Exception. For that the Master has not recommended that a decree be entered by the court dismissing the bill of complaint herein for want of equity.

Eighth Exception. For that the Master has not found and reported any facts necessary to bring this cause within the jurisdiction of this court.

Ninth Exception. For that the Master has not found and reported that the facts established by the proofs taken in this cause show that this court is without jurisdiction herein.

1657 Tenth Exception. The defendants severally except to the finding of the Master that the material allegations of the

bill are sustained by the evidence, and in support of this exception show:

(*a*) The evidence in the case does not sustain the allegation in the bill, that the complainant gave information to the State Board of Equalization at its session in 1900 with reference to its property and capital stock; on the contrary it appears from the record, and the evidence in this case, and from the testimony of each of the members of said State Board of Equalization who have testified in this case, and from the statements made by the complainant to said State Board of Equalization, and from all the facts and circumstances shown by the evidence in this case, that said pretended assessment of complainant's capital stock made by the said State Board of Equalization in 1900 was induced by false and fraudulent representations with reference to the value of said capital stock made by the complainant to said State Board of Equalization, and the Master should have so found and reported.

(*b*) The evidence in this case fails to sustain the allegation in the bill, that the application by the State Board of Equalization for an extension of time within which to make a return to the writ of mandamus in said suit of the People *vs.* The State Board of
1658 Equalization was denied by the Circuit Court of Sangamon County in manner and in terms which were understood by many, if not all, of the members of said State Board, and by said State Board, as being menacing to the members of said Board, and as laying down specific instructions to them, without leaving them any substantial discretion respecting the method and basis of making the new assessment commanded, and requiring them to assess the capital stock and franchise of complainant at its full cash value, and to make its assessment on said basis for the year 1900 without said State Board taking into account or consideration the rate of assessment of all taxable property in the State of Illinois as equalized by the said State Board of Equalization for the year 1900, and without attempting to equalize the assessment to be made by said State Board in obedience to said writ upon the capital stock and franchise of complainant for the year 1900, with the assessments made upon the other taxable property in the State of Illinois, for the year 1900, and without taking into account or making any deduction on account thereof, for the assessment made in the year 1900 by the State Board of Equalization upon the capital stock and franchise of complainant. The testimony of each one of the members of said State Board who have testified in this case, and the evidence in the case fails entirely to show any direction from the Court with
1659 reference to said assessment different in meaning from the language of the writ of mandamus in said suit itself, and the Master should have so found and reported.

(*c*) There is no evidence in the record tending to establish the allegation in the bill that the rate of valuation or assessment of all other property assessed and taxed in the State of Illinois for the year 1900 as equalized by the State Board of Equalization did not exceed one-fifth of 70 per cent. of the cash value thereof. The evidence in the case wholly fails to overcome the presumption that the

rate of valuation or assessment for said year of 1900 is different from what it is required by the statute to be, viz: one-fifth of the cash value of the property in said state.

(*d*) The evidence fails to sustain the allegation in the bill, that in making said last assessment for 1900 said Board and its members acted under the belief that said Board had no right under the writ issued by said Circuit Court of Sangamon County to take into consideration the rate of assessment in the State of Illinois on all of the taxable property as finally equalized for the year 1900. No such inference can reasonably be drawn from the language of the writ of mandamus, and there is no fact or circumstance brought out by the testimony of any of the members of said State Board,
1660 or by any other witnesses, from which such a belief could have been formed by a man reasonably intelligent, and the statements of the members of the State Board that they acted under such belief, when no fact is shown from which such belief could reasonably have been formed, shows collusion on the part of the said members of said State Board of Equalization who have testified in this case to assist in defeating said assessment made by them in the year 1901, and the Master should have so found and reported.

(*e*) The evidence does not sustain the allegation in the bill that the average equalized assessed value of property in the State of Illinois for the year 1900 did not exceed in fact one-fifth of 70 per cent. of the cash value thereof. No competent evidence whatever was presented by the complainant with reference to the assessed valuation of taxable property in the State of Illinois for the year 1900.

(*f*) The evidence in the case fails to establish the allegation in the bill that if said State Board of Equalization had considered itself at liberty under said writ of mandamus to equalize its assessment upon complainant's capital stock with the equalized assessed valuation of all other property assessed for taxation in the State of Illinois for the year 1900, it would have resulted in a reduction of not less than 30 per cent. in the value placed upon said capital stock.

1661 (*g*) The evidence fails to sustain the allegation of the bill that in making said new assessment for the year 1900 said State Board of Equalization considered itself to be coerced by the writ issued by said Circuit Court of Sangamon County, and to be acting upon specific instructions from said court, and to be debarred from the exercise of independent judgment and discretion in regard to the valuation of complainant's capital stock. There is no fact or circumstance established by the testimony, either of the members of the State Board of Equalization who have testified in this case, or by any other witnesses, from which it can be inferred that said State Board of Equalization in making said last assessment for 1900 did not, in making the same, exercise its independent judgment and discretion, and the said Master should have so found and reported.

(*h*) The evidence in the case does not sustain the allegation in the bill that complainant had no opportunity to be heard in said suit of the People, etc. *vs.* The State Board of Equalization, the record of which is in evidence in this case; on the contrary, it ap-

pears from the testimony of William G. Beale and John S. Miller, witnesses in the case, and from all of the facts and circumstances of the case, that the complainant and the other corporations affected by said assessment made by said Board of Equalization in
1662 question in this case had full knowledge of the pendency of said mandamus suit, paid a large portion of the fees and expenses of said Board of Equalization in said suit, and in fact actually directed and conducted the defense thereof; and the Master should have so found and reported.

(*i*) The evidence in the case wholly fails to sustain the allegation in the bill to the effect that the assessment of complainant's capital stock made in the year 1900 was made on the same basis of valuation as the assessments made by said board in said year against all other corporations subject to capital stock assessment in the State of Illinois. There is no competent evidence which shows the facts with reference to the value of the capital stock of any corporation for said year 1900, except the corporations affected by said re-assessment made in 1901. All the evidence in the case, both that of the complainant and the defendants herein, relating to the value of the capital stock of the complainant on the 1st day of April, 1900, shows that said first assessment was grossly and fraudulently inadequate, and the Master should have so found and reported.

(*j*) The evidence in the case fails to establish the allegation in the bill that said last assessment of complainant's capital stock
1663 for the year 1900 was not a valuation of said capital stock including the franchise. The evidence, both of the complainant and the defendants herein, shows that the full and fair cash value of said capital stock of said complainant on the 1st day of April, 1900, was in fact in excess of the valuation placed thereon by said State Board of Equalization in said last assessment; and the Master should have so found and reported.

(*k*) The evidence in the case fails to sustain the allegation in the bill that said last assessment of complainant's capital stock for 1900 was made without notice and without opportunity to be heard on the part of complainant. The evidence in the case shows that said complainant had full knowledge of the proceedings in said mandamus suit in evidence in this case, and in fact assisted in the defense of said suit, and had full and ample opportunity to submit to said State Board of Equalization any fact which it might have wished to submit with reference to the value of its capital stock; and the Master should have so found and reported.

1664 (*l*) The evidence in the case wholly fails to support the allegation in the bill that the report and assessment of the capital stock of the complainant and its predecessor corporations was prepared by the committee on assessment of capital stock of corporations in executive session before the ruling of the court on motion for an injunction; and that neither the said State Board as a body, nor a majority of the members thereof, had any participation in or knowledge of the amounts fixed by the said assessment or the basis or method by which they were prepared before the adoption of said report of said State Board of Equalization; on the contrary,

it is established by the testimony of the members of the State Board of Equalization who testified in this case, and by other evidence in the case, that the members of said State Board had knowledge of the pendency of said mandamus suit; that many of them were parties thereto, and that the said State Board had full knowledge of the evidence presented in said suit with reference to the value of the capital stock of complainant and the other companies affected by said assessment for 1900. And the evidence wholly fails to overcome the presumption that said valuation of the capital stock of the said complainant and said other companies was made by said State Board of Equalization after a due inquiry and examination; and the Master should have so found and reported.

(*m*) There is no evidence in the record tending to establish
1665 the allegation in the bill that in making said last assessment for 1900 said State Board of Equalization discarded all other methods or tests of value and relied solely upon assumed market valuations of the stocks and bonds of each of said corporations. The testimony of the members of the State Board of Equalization and the evidence of other witnesses show due investigation by said Board with reference to the value of said capital stock and full opportunity on the part of said complainant and other companies affected thereby to present to the Board any fact relating to the value of said capital stock; and the Master should have so found and reported.

(*n*) The evidence in the case wholly fails to establish the allegation in the bill that general property in the State of Illinois, as well as in Cook county, was not assessed in the year 1900 for taxation exceeding one fifth of 70 per cent. of its fair cash value, and at a much less rate than the property of steam railroads. There is an utter absence of evidence in the record tending to support this allegation; and the Master should have so found and reported.

(*o*) The complainant at the hearing offered no competent evidence tending to establish the allegations of the bill with reference to the assessment upon the capital stock of the remaining 334 corporations of which 112 were railroad companies, assessed by said
1666 State Board of Equalization in 1900. The Master should have found and reported that each one of the allegations with reference to the assessment of the capital stock of said corporations was wholly unsupported by the evidence.

(*p*) Complainant has established by its evidence no fact tending to show that said complainant and each one of its predecessor corporations was not subject to taxation upon its capital stock including its franchise, and no fact tending to show that said assessment or any part thereof was a double assessment, and the Master should have found and reported that the allegations in said bill of complaint that said tax complained of, or any part thereof, was a double taxation, is not supported by the evidence.

(*q*) The evidence wholly fails to establish the allegation in the bill that said State Board of Equalization in making said last assessment for 1900 illegally and fraudulently included in said assessment $7,844,100 of stocks belonging to said complainant, and thereby intentionally subjected it to unequal and unconstitutional double

taxation. The testimony of each of the members of said State Board of Equalization and the other evidence shows that said State Board of Equalization made due inquiry into the value of the capital stock of each of said corporations, and that if any deduction or deductions should have been made in said assessment by reason of the fact that said complainant was the owner of certain stocks in the said
1667 predecessor corporations, the failure to make such deduction was not due to any intentional misconduct on the part of said State Board of Equalization or the members thereof, but was due wholly to the fact that said complainant and said other companies failed to present the facts with reference to the ownership of such stocks to said State Board of Equalization; and that said complainant and said other corporations had full and ample opportunity to present such facts to said State Board of Equalization.

(r) Complainant wholly failed to produce any evidence tending to establish the allegation in the bill that the said Board in making said last assessment for 1900 was guilty of gross discrimination between different classes of property, and did not assess the property of steam railroads at the same rate or in the same manner as it did the property of complainant, and no evidence was presented with reference to the value of the capital stock of the railway companies mentioned in complainant's bill; and the Master should have found and reported that each one of the allegations in said bill with reference to the values of the capital stock of said railroads was wholly unsupported by the evidence.

1668 Eleventh Exception. The defendants severally except to the failure of the master to find and report that the original assessment of complainant's capital stock for the year 1900 was fraudulent and void. The record of the mandamus suit in evidence in this case, the evidence showing the value of complainant's capital stock, the testimony of the members of the State Board of Equalization show that said original assessment was grossly and fraudulently inadequate, and that the complainant herein was a party to the making of such fraudulent assessment.

Twelfth Exception. The defendants severally except to the failure of the Master to find and report that the valuations placed upon the capital stock of complainant in the last assessment made for the year 1900 was a fair and just valuation of said capital stock, and was made by said State Board of Equalization after proper investigation and inquiry with reference thereto.

Thirteenth Exception. The defendants severally except to the finding of the Master that the evidence does not establish that complainant should be required to pay anything in addition to the amount already paid under the interlocutory order heretofore made in this case. The evidence with reference to the value of complainant's capital stock including the franchise shows that the valuation placed by the said State Board of Equalization in 1901 in
1669 making said new assessment for 1900, was in fact a just and fair valuation of the capital stock of said complainant. The complainant has introduced no evidence which shows that such valuation was not a fair and conservative valuation of complainant's

capital stock. The only objection to the valuation made by the complainant is that the State Board of Equalization failed to make a deduction of 30 per cent. which complainant claims should have been done, if said assessment had been equalized with other property in the state of Illinois. The Master should therefore have found and reported that the complainant should be required to pay at least an additional amount representing the tax at the rate shown by the evidence in this case upon the difference between the valuation heretofore fixed in said interlocutory proceedings and the valuation placed upon said capital stock from said 30 per cent. There is absolutely no evidence in the case which tends to show that the complainant is entitled to any other or greater deduction from said last assessment made by said State Board of Equalization and said 30 per cent. above mentioned.

1670 Fourteenth Exception. The defendants severally except to the finding of the Master that the material allegations of the bill are sustained by the proof for the reason that it is not stated by the Master what allegations are sustained and what facts are proved. The facts proved are not sufficient to entitle the complainant to the relief sought, and the Master should have so found and reported.

JAMES H. WILKERSON,
County Attorney.
WILLIAM F. STRUCKMAN,
Assistant County Attorney.
HOWLAND J. HAMLIN,
Attorney General.
FRED. L. SHEPARD,
Solicitors for Defendants.

(Endorsed:) Filed Dec. 1, 1904 Marshall E. Sampsell, Clerk.

1671 And on to-wit: the nineteenth day of May, 1906, came the City of Chicago by its solicitors and filed in the clerk's office of said Court its certain Petition in words and figures following to-wit:

Petition of City of Chicago.

In the Circuit Court of the United States for the Northern District of Illinois, Eastern Division Thereof.

No. 26609.

CHICAGO UNION TRACTION COMPANY
vs.
SAMUEL B. RAYMOND ET AL.

Now comes your petitioner, the City of Chicago, and shows unto the Court that on the 14th day of November, 1901, the Chicago Union Traction Company filed its bill of complaint in the Circuit Court of the United States, for the Southern District of Illinois,

against the State Board of Equalization of the State of Illinois, in which said bill of complaint the said complainant sought to restrain the said State Board of Equalization from making an assessment of the franchises and capital stock of the complainant, and that said bill of complaint prayed for an injunction against said State Board of Equalization and that said bill charged certain alleged errors and irregularities against the said State Board of Equalization, all of which matters and things appear more fully in said bill of complaint, reference to which is hereby had.

1672 Your petitioner further shows that a temporary restraining order was issued in said cause, and a motion made by the complainant for a preliminary injunction, which motion was set for hearing on the 22nd day of November, 1901.

And your petitioner further shows that on the said 22nd day of November, 1901, said temporary restraining order was dissolved and the said motion for a preliminary injunction denied.

And your petitioner further shows unto the court that thereafter and on to-wit: the 22nd day of November, 1901, an assessment was made of the capital stock and franchises of the complainant by the said State Board of Equalization, and *and* for the year 1900 and that said assessment was duly certified to the County Clerk of Cook County, Illinois and that a tax was duly levied by said County Clerk, based upon said assessment for the year 1900, against the said complainant on account of its franchises and capital stock, amounting to the sum of $1,053,720.20 and thereafter the above entitled cause was transferred from the Southern District of Illinois to the Northern District of Illinois and on the 14th of February 1902, an amended bill of complainant was filed against Samuel B. Raymond, County Collector and Julius Solomon, Town Collector of the town of North Chicago and on the 4th day of April, 1902, this court entered an order directing a re-assessment of the property of the complainant according to certain methods pointed out in an opinion on that day filed, and ordered the complainant to pay anything that might be found due under said re-assessment, and ordered a reference of said cause to Henry W. Bishop, a Master of this court; and thereafter,

1673 and on or about the 9th day of June, 1902, said Master filed his report, in which said Master found that there was due and owing from the complainant, under the methods of re-assessment ordered by said Court, the sum of $134,350.03 and that thereafter and on to-wit: the 1st day of July 1902, the said complainant paid to the County Collector of Cook County, the said sum of $134,350.03.

And your petitioner further shows that there is now remaining due and unpaid of the said tax levied against the complainant the sum of $919,370.22.

Your petitioner further shows that it is a municipal corporation, duly organized and existing under and by virtue of the laws of the State of Illinois and that under and by virtue of the laws of the State of Illinois, it will be the duty of the County Collector and the County Treasurer of Cook County, Illinois, to pay unto your petitioner as its share of the said taxes so due and owing from the complainant, the sum of $740,477.33.

Your petitioner therefore shows that it is the owner of and entitled to the said sum of $740,477.33 out of the taxes now in controversy in this cause and therefore your petitioner is directly interested in the outcome of this suit.

Your petitioner further shows that the above cause was subsequently referred to Henry W. Bishop, a Master in Chancery of this court and on or about the 19th day of November 1904 said Master filed his report in this cause, and the said defendants Julius
1674 Solomon and Samuel B. Raymond, filed their exceptions to said report and that said cause has ever since said date been pending and undisposed of on said exceptions to said report.

Your petitioner further shows that neither the said Samuel B. Raymond nor the said Julius Solomon have any personal interest in the outcome of this suit, but that all of the moneys that will be collected by said defendants and involved in this cause belong to your petitioner and other municipal corporations for whose benefit said taxes were levied.

Your petitioner further shows that on the 18th day of November 1901, your petitioner filed a petition in this cause setting up the various proceedings that had been had in this cause in said Southern District of Illinois and the interest of your petitioner in the subject matter of said bill of complaint and your petitioner then prayed that an order might be entered making your petitioner a party defendant to said cause and giving your petitioner time to plead to said bill — complaint.

Your petitioner further shows unto the Court that the Court then stated that the Court would not at that time enter any order in reference to the application of your petitioner, but would permit your petitioner to file briefs and participate in the argument and disposition of this cause.

And your petitioner further shows that after this cause had been transferred to the Northern District of Illinois, and after the amended bill of complaint in this cause had been filed on the 14th of
1675 February, 1902, your petitioner filed a brief by C. M. Walker, its corporation counsel, and Henry Scofield, its special counsel entitled "In the Matter of the application of certain corporations to enjoin the collection of taxes," that said brief consisted of 17 pages and contained arguments and numerous citations of authorities on the question of the jurisdiction of this court to entertain the bill of complaint in this cause.

Your petitioner further states that it is advised by counsel and therefore charges the fact to be that the complainant and the defendants are all citizens and residents of the State of Illinois and that no Federal question is involved in the matters and things charged in the complainant's bill of complaint and therefore this court is without Jurisdiction touching the matters and things in said bill of complaint alleged.

And this petitioner further states that the complainant's property was assessed in strict conformity with the laws of the State of Illinois and that the taxes levied against it and sought to be enjoined by the bill of complaint in this cause are justly and legally due and

owing from said complainant and unto the County Treasurer of Cook County, Illinois.

Your petitioner further shows that it desires to be made a party defendant to this cause so that your petitioner may participate in the trial and disposition of this cause and may be in a position to prosecute an appeal from any judgment or decree that may be entered by this court in the event that your petitioner should feel itself aggrieved by such judgment or decree.

Your petitioner further shows that it does not desire to introduce any evidence or reopen the hearing of testimony in any way
1676 or to delay the speedy determination of this cause, but that your petitioner is willing and hereby offers to file its answer within a short day to be fixed by the Court, so as not to in any way delay the speedy determination of this cause.

Wherefore your petitioner prays that it may be made a party defendant to this cause and be given leave to file an answer in this cause within a short day, to be fixed by this court.

CITY OF CHICAGO,
By DAVID K. TONE,
Its Solicitor.

JAMES HAMILTON LEWIS,
Corporation Counsel for City of Chicago.

STATE OF ILLINOIS, *County of Cook*, ss:

David K. Tone, being first duly sworn, on oath, states that he is special counsel for the City of Chicago in the suit above described, that this affiant has investigated the matters and things set forth in the foregoing petition and is duly authorized to make this affidavit in behalf of the City of Chicago and that the matters and things stated in the foregoing petition are true, to the best of affiant's knowledge and belief.

DAVID K. TONE.

Subscribed and sworn to before me this 10th day of April, A. D. 1906.

J. E. OWEN,
[SEAL.] *Notary Public.*

(Endorsed:) Filed May 19, 1906. Marshall E. Sampsell, Clerk.

1677 And on to-wit: the nineteenth day of May, 1906, being one of the days of the regular December term of said Court, 1905, in the record of proceedings thereof in said entitled cause before the Hon. Peter S. Grosscup, Circuit Judge, appears the following entry to-wit:

Order of May 19, 1906.

26609.

CHICAGO UNION TRACTION COMPANY
vs.
SAMUEL B. RAYMOND ET AL.

This cause this day coming on to be heard, upon the verified petition and motion of the City of Chicago for leave of said City to be made a party defendant to this cause, and the court, after hearing the argument of counsel for the respective parties and being duly advised in the premises;

Now it is hereby Ordered that the said motion of the City of Chicago is granted and the City of Chicago be and is hereby made a party defendant to this cause and leave be and the same is hereby granted to the City of Chicago to file an answer in this cause instanter upon the condition, however, that the answer so filed shall adopt substantially the allegations of the answers of the other defendants to this cause and that the said City of Chicago shall raise no new issues and shall not be permitted to offer any additional evidence.

The replication of the complainant now on file shall stand as the replication of the complainant to the answer of the City of Chicago when filed.

1677½ And on to-wit: the nineteenth day of May, 1906, came the City of Chicago by its solicitor and filed in the clerk's office of said Court its certain Answer in the words and figures following to-wit:

1678 *Answer of City of Chicago.*

In the United States Circuit Court, Northern District of Illinois.

No. 26609.

CHICAGO UNION TRACTION COMPANY, Complainant,
vs.
SAMUEL B. RAYMOND, County Treasurer and *ex-Officio* County Collector of Cook County, and JULIUS SALOMON, Town Collector of the Town of North Chicago, Defendants.

Answer of the City of Chicago to the Bill of Complaint of the Chicago Union Traction Company, complainant, filed herein, after leave of Court for that purpose first had and obtained.

This defendant, now and at all times hereafter saving and reserving unto itself all benefit and advantage of exception which can or may be had or taken to the many errors, uncertainties and other imperfections in the said bill contained, for answer thereunto, or to so

much and such parts thereof as this defendant is advised is material or necessary for it to make answer unto, answering, says:

1. This defendant admits that the said complainant is a corporation created and existing under the laws of the State of Illi-
1679 nois, and is the owner of street railways in the City of Chicago, and engaged in the business of operating said street railways as alleged in said bill of complaint.

2. This defendant further answering admits the allegations of paragraph- 2 and 3 of Complainant's bill of complaint.

4. This defendant further answering admits that the real estate owned by said Complainant on the first day of April, 1900, situated in the County of Cook and State of Illinois was assessed for said year by the Board of Assessors of said Cook County, at the full value of $4,312,295, and that they also assessed the tangible property of the complainant for said year at the sum of $7,439,500, and returned the same to the Board of Review of Cook County, as required by law. This defendant further admits that thereafter the complainant, in response to notice, appeared by its counsel before said Board of Review, and that after a hearing before said Board of Review the said Board of Review reduced the assessment of the tangible personal property to the sum of $5,959,500, full value, and reduced the assessment of the real estate to the sum of $3,448,765, as the full value, making the total full valuation, $9,408,265, and an assessed value of $1,181,653. This defendant further admits that said assessments as finally made by the Board of Review for the year 1900,
1680 were make in like manner and on the same basis as other property situated in Cook County, and that such assessments were returned to the proper officers, as required by law. This defendant further admits that the State Board of Equalization convened at Springfield, Illinois, in 1900, at the time required by law. And this defendant further admits that such State Board of Equalization equalized the assessments of personal property and of the city lots between the difference counties of the State and ascertained and determined that there should be added to the assessments on such properties in the County of Cook ten per cent. of the valuation, as returned by the Local assessors, and that as a result of such increase the total full cash value of all of complainant's property in the County of Cook assessed by the local assessing tribunals in said county was fixed at the sum of $10,453,150, and the assessed value at the sum of $2,090,630. And this defendant further admits that the complainant by its officers, appeared before said State Board of Equalization, and that the said State Board of Equalization made an alleged finding of the full value of complainant's capital stock and franchise at the sum of $13,453,150, and of an alleged assessed value of $2,690,630 and deducted from said alleged assessed value the assessed value of Complainant's tangible property as returned by the local assessors, equalized as aforesaid, leaving an alleged net assessment of the capital stock and franchise of complainant in
1681 excess of the said equalized value of tangible property of $3,000,000, full value, and $600,000 assessed value.

5. This defendant further answering admits that the said net

assessment of $600,000 was duly certified to the County Clerk of Cook County, and that said County Clerk extended against said assessment the different taxes levied in the year 1900, proper to be extended against the assessment of complainant's property for said year, and that the warrants for the collection of said taxes were duly issued to the Town Collector of North Chicago for execution.

6. This defendant further answering admits that the complainant paid to said Collector the sum of $52,902, for the amount of taxes extended against said assessment of $600,000. And further admits that no portion of said taxes has been returned or tendered back to the complainant; but this defendant denies that the said payment is or was in full satisfaction of all taxes levied against a proper assessment of complainant's capital stock and franchises for the year 1900.

7. This defendant further answering states on information and belief, and from such information and belief, alleges the fact to be that the full, fair cash value of Complainant's capital stock
1682 and franchise on April 1st, 1900, was far in excess of the sum of $13,453,150, and that the actual fair cash value thereof on said date was in excess of $130,000,000; that notwithstanding the fair cash value of Complainant's capital stock and franchise as aforesaid, the State Board of Equalization, in total disregard of its duty as required by law, wilfully and fraudulently found the full value of Complainant's capital stock and franchise as above set forth, and set down an assessment of the same over and above the assessment of its tangible property by the local assessors as above set forth, which said fraudulent and illegal action on the part of said State Board of Equalization, in relation to valuation and assessment of Complainant's property was had by and with the concurrent fraudulent action of complainant itself, in its failure to properly list and schedule its property for the purposes of taxation, and to furnish the statements required by law, and in its fraudulent representations to the said State Board. And this defendant further states and charges the fact to be that the said alleged assessment was and has been long prior to the filing of this bill held and declared by the Circuit Court of Sangamon County and by the Supreme Court of the State of Illinois, to be null and void, and a reassessment of the capital stock and franchise of the said complainant over and above the assessed value of its tangible property was ordered by the Circuit Court of
1683 Sangamon County. This defendant further answering admits that while the State Board of Equalization was still in session for the year 1900, a petition for mandamus was filed in the Circuit Court of Sangamon County by the People of the State of Illinois, upon the relation of one Catherine Goggin, a resident of said Cook County, and Robert C. Steele, a resident of Sangamon County. This defendant further answering states and alleges the fact to be that the proceedings and judgment heretofore referred to in and by which a new assessment was ordered were had in said mandamus proceedings in said Circuit Court of Sangamon County. This defendant further states and alleges the fact to be that it was prayed in said petition for mandamus that said State Board of

Equalization be commanded to make a lawful assessment for the year 1900, upon the capital stock and franchise of the Complainant herein, and other corporations named in said petition. This defendant admits that neither the complainant herein, nor any of the other said corporations were made parties defendant to said petition. But this defendant states and alleges the fact to be that this complainant and the other corporations named in said petition were requested and directed by the said State Board to appear in said Mandamus proceeding by their own solicitors, and to make such defense or defenses as they might deem advisable; that this complainant
1684 and said other corporations, after a due consideration of the premises, employed solicitors who appeared in said proceedings in the said Circuit Court of Sangamon County, and in the appeal taken to the Supreme Court of the State of Illinois, and made such defense as they deemed advisable, which defense was made for the benefit of the Complainant herein, and the other said corporations as fully and effectually as if this complainant and said other corporations had been parties defendant to said petition for mandamus by name. This defendant admits that final judgment was entered by the Circuit Court of Sangamon County, and that an appeal was prayed to the Supreme Court of the State of Illinois, but this defendant has no knowledge or information except as contained in the complainant's bill of complaint, as to what defenses were interposed in said Circuit Court or in said Supreme Court, and therefore neither admits nor denies the allegations in said bill concerning the same, but demands strict proof thereof. This defendant admits that the Supreme Court of Illinois on or about the 24th day of October, 1901, affirmed the said judgment of the said Circuit Court of Sangamon County, and that thereafter a peremptory writ of mandamus was issued by the Circuit Court of Sangamon County, commanding substantially as set forth in the Complainant's bill of complaint.

8. This defendant further answering admits that in the year 1900 the State Board of Equalization, convened in the City of
1685 Springfield at the time required by law, and that prior thereto an election had intervened between the session of the Board in 1900, and the session in 1901, and that the membership of said State Board had largely changed; and further admits that while said State Board was in regular session, as aforesaid, a peremptory writ of mandamus issued on the said judgment of the said Sangamon County Circuit Court was served upon the members thereof. This defendant further answering says that as to the allegations in paragraph 8 of complainant's said bill of complaint, in regard to the proceedings which were had before said State Board, it is not informed except by Complainant's said bill of complaint, and therefore it neither admits nor denies the same, but if the same should become material to the issues herein, demands strict proof thereof. This defendant further answering admits that thereafter, and on or before the 20th day of November, 1901, the said State Board of Equalization made an assessment of the capital stock and franchises of the complainant in the several amounts shown by Schedule B

as alleged on page 17 of complainant's bill of Complaint; but this defendant further answering denies that said State Board, in making said assessment, failed or refused to take into account any further assessment for the year 1900, or refused and neglected to equalize the assessment of complainant's capital stock and
1686 franchises, with the assessment on all other taxable property in the State of Illinois for said year, and denies that the assessed valuation for the year 1900 of such other property did not exceed one-fifty of seventy per cent. of the cash value thereof. But this defendant states and alleges the fact to be that the other property in the State of Illinois was assessed by the different assessing tribunals at what said tribunals considered and ascertained to be one fifth of the full fair cash value thereof. This defendant further answering denies that under the said mandate of the said Circuit Court of Sangamon County the said State Board of Equalization had no right to take into consideration the rate of assessment of other taxable property as equalized for the year 1900, and denies that said State Board acted under the belief that they had no such right. But this defendant states and alleges the fact to be that in making such assessment in pursuance to said mandate the said State Board of Equalization, after taking into consideration the assessments on other properties, and the value of Complainant's property, in pursuance of the rules of the said State Board, and which had heretofore been adopted by said State Board, and which had received the sanction of the Supreme Court, ascertained and fixed for purposes of taxation for the year 1901 the value of complainant's capital stock and franchises, as set forth in Schedule B on page 17 of Com-
1687 plainant's bill of Complaint. And this defendant further answering states and alleges the fact to be that the complainant herein had due notice, knowledge and information, that it was the duty of the said State Board at its said session in 1901, to make an assessment of the capital stock and franchises of the complainant for the year 1901, and that said State Board intended to make such assessment, and that complainant had the right to appear before said Board in regard to the same. This defendant further answering admits that on or about the 22nd day of November, 1900, the State Board of Equalization of the State of Illinois, adopted certain pretended resolutions or rules, substantially as set forth on page 24 of Complainant's bill of complaint; and further admits that the said Supreme Court in said Mandamus proceeding adjudged that the said rules were in conflict with the Revenue Laws of the State of Illinois, and were illegal and inoperative. And this defendant states and alleges the fact to be that under the rules which were theretofore in force, remained in force until on or about the 10th day of December, 1901, when the State Board adopted certain other rules substantially as set forth on page 28 of Complainant's bill of complaint. This defendant further answering says that as to the allegations in said bill of complaint contained regarding the valuation of taxable property in the State of Illinois and in Cook County for the years

1899, 1900 and 1901, it has no knowledge or information
1688 except that contained in said bill of complaint, and therefore
neither admits nor denies the same, but if said fact should become material to the issues herein, demands strict proof thereof. This defendant further answering denies that the equalized valuation of all taxable property for the year 1899, did not equal one fifth of the actual value of said property, and denies that the local assessing tribunals of the State assessed property within their jurisdiction with any other view or upon any other basis than upon one-fifth of what they considered and determined to be the actual fair cash value. This defendant further answering denies that the equalized assessed valuation of taxable property in the State of Illinois for the year 1900 did not exceed one-fifth of seventy per cent. of the actual fair cash value thereof, but states and alleges the fact to be that the different assessing tribunals of the State assessed the property subject to taxation by them at an assessed valuation of one fifth of what such tribunals considered and determined to be the actual cash value thereof. This defendant further answering says that it has no knowledge or information excepting that contained in said bill of complaint as to what the members of the said Board of Equalization believed was the rate upon which the local assessors throughout the
State had based their findings or assessed the full valuation
1689 for the year 1900, and therefore neither admits nor denies
the same. And this defendant further answering denies that in making said assessment for the year 1900, there ought to have been any reduction from the valuation as ascertained by said State Board, and denies that in no case ought such assessment to have exceeded the sum of $4,500,000, and denies that the members of said State Board did not exercise their own judgment and discretion in equalizing the valuation of the Complainant's capital stock and franchise for the year 1900 with the equalized assessment of other taxable property in the State of Illinois for the said year. And denies that the members of said State Board were coerced or threatened, or considered themselves to be coerced or threatened by said writ of said Sangamon County Circuit Court, or that they were acting or considered themselves to be acting under the specific instructions, or that they were debarred from the exercise of their legal judgment and discretion.

9. This defendant further answering admits that the assessments, as made by the said State Board were certified and extended, and the warrants delivered, and that interest was added thereto, as required by the law of the State of Illinois, substantially as set forth in Complainant's bill of complaint.

10. This defendant further answering denies that the said capital stock assessment for the year 1900 is illegal unequal, wrongful or
in violation of the Constitution of the United States or of the
1690 Constitution of the State of Illinois; and denies that the making of said new assessment for the year 1900 and the collection of the taxes extended thereon, constitute an attempt to take complainant's property without due process of law, and are in violation of any of the provisions of the Constitution of the United States or

of the Constitution of the State of Illinois. And denies that complainant is thereby denied the equal protection of the laws guaranteed by the Constitution of the United States. And this defendant further answering denies that the assessment of complainant's property, as compared with the assessment of the properties of other corporations of the State of Illinois, has deprived the complainant of the equal protection of the laws, in violation of the Constitution of the United States, and denies that the complainant is subjected to excessive and disproportionate taxation.

11. This defendant further answering sayd that it has no knowledge or information as to the allegations in paragraph 10 of Complainant's bill of complaint, except that contained in Complainant's bill of complaint, and therefore neither admits nor denies the same; but denies the materiality thereof. But if the same should become material to the issues involved herein, demands strict proof thereof.

12. This defendant further answering as to the allegations in the 14th paragraph of Complainant's bill of complaint concerning
1691 the assessments of property of other corporations therein named, says that it has no knowledge or information concerning the same, except that contained in said Bill of Complaint, and therefore neither admits nor denies the same, but this defendant states and alleges the fact to be that the State Board of Equalization in all cases of such corporations did ascertain the full cash value of the capital stock and franchises of same and that in all those cases in which no assessments of capital stock and franchise appears against such corporations the said State Board of Equalization found and determined that the assessment of tangible property of said corporations was so high that, after deducting the same from the full value of capital stock and franchise there remained nothing to assess in excess of the value of the tangible property.

13. And this defendant further answering as to the allegations in paragraph 18 of Complainant's bill of complaint concerning the amount in values of property of the different corporations owned or held under lease by the complainant, and the terms of such leases, says that it has no knowledge or information concerning the same, except that contained in the said Bill of complaint, and therefore neither admits nor denies the same, but demands strict proof thereof.

14. This defendant further answering denies that the income of the complainant is as alleged in paragraph 20 of complain-
1692 ant's bill of complaint. And this defendant says and alleges the fact to be that both the gross and net income is greatly in excess of the amounts therein stated.

15. This defendant further answering, denies that the complainant is entitled to any of the relief asked for in its bill of complaint, and denies that the payment of taxes by the complainant on the alleged first assessment for the year 1900 and the collection of interest would deprive complainant of its property without due process of law, and would deny complainant the equal protection of the laws in violation of the provisions of the Constitution of the United States.

This defendant further answering states that it is a municipal corporation, duly organized and existing under and by virtue of the laws of the State of Illinois, and that under and by virtue of the laws of the State of Illinois, it will be the duty of the County Collector and the County Treasurer of Cook County, Illinois, to pay over to this defendant as its share of the taxes so due and owing from the complainant in this cause, the sum of $740,477.33, and therefore this defendant shows that it is in equity the owner of and entitled to receive the said sum of $740,477.33, out of the taxes now in controversy in this cause.

And this defendant further answering says that as to the allegations in said bill of complaint contained not herein specific-
1693 ally answered, admitted or denied, *is* that this defendant neither admits nor denies the same, but demands strict proof thereof. And this defendant further answering denies that the complainant is entitled to the relief or any part thereof in said bill of complaint demanded, and prays the same advantage of this answer as if it had pleaded or demurred to the same, and prays to be henceforth dismissed with its reasonable costs and charges in this behalf most wrongfully sustained.

CITY OF CHICAGO,
By DAVID K. TONE, *Special Counsel.*
JAMES HAMILTON LEWIS,
Corporation Counsel.

(Endorsed:) Filed May 19, 1906. Marshall E. Sampsell, Clerk.

1694 And on to-wit: the twenty-fifth day of June, 1906, there was filed in the clerk's office of said Court a certain Opinion by Judge Grosscup, in words and figures following to-wit:

1695 *Opinion.*

In the Circuit Court of the United States, Northern District of Illinois.

CHICAGO UNION TRACTION COMPANY
vs.
SAMUEL B. RAYMOND, County Collector, ET AL.

CHICAGO EDISON COMPANY
vs.
SAMUEL B. RAYMOND, County Collector, ET AL.

CHICAGO CITY RAILWAY COMPANY
vs.
SAMUEL B. RAYMOND, County Collector, ET AL.

SOUTH CHICAGO CITY RAILWAY COMPANY
vs.
SAMUEL B. RAYMOND, County Collector, ET AL.

PEOPLES GAS LIGHT & COKE COMPANY
vs.
SAMUEL B. RAYMOND, County Collector, ET AL.

CHICAGO TELEPHONE COMPANY
vs.
SAMUEL B. RAYMOND, County Collector, ET AL.

CHICAGO CONSOLIDATED TRACTION COMPANY
vs.
SAMUEL B. RAYMOND, County Collector, ET AL.

GROSSCUP, *Circuit Judge:*

The complainants are utility corporations, organized under the laws of Illinois, and operating in Cook County, Illinois. The defendants are the County Treasurer of Cook County, the local Town Collectors, and in the first two cases, the State Board of Equalization. There exists in none of the cases, therefore, the diversity of citizenship that confers jurisdiction on the federal court.

The substance of the bill in each case is as follows: That at the annual meeting of the State Board of Equalization for 1900, the capital stock of the complainant corporations, including their franchises, was assessed according to law; that on the basis of such
1696 assessments the taxes for the year 1900 were paid; that subsequently upon the relation of certain citizens of Illinois, mandamus proceedings were instituted in the Circuit Court of Sangamon County against the State Board of Equalization, charging that the board had, in respect of these assessments, illegally neglected and refused to discharge its duty, in that such assessments

fell far below the real value of capital stock of the complainant companies; that on or about the first day of May, 1901, final judgment was rendered in said cause, directing a writ of mandamus to issue against the members of the State Board, requiring it to convene forthwith to reassess such capital stock, including the franchises, at their fair cash value, as of the first of April, 1900, "arriving at such valuation from the best information obtainable, taking into consideration, among other things the market value of the shares of stock of each corporation and the total amount of its indebtedness, except for current expenses." Upon appeal to the Supreme Court of Illinois this decree was affirmed. 61 N. E. 339. But in neither the Circuit Court nor the Supreme Court were the complainant corporations parties to the suit.

In pursuance of this mandate, the State Board of Equalization for the year 1901, successor in office to the board of 1900, but largely changed in individual membership, at its regular meeting for the year 1901 purported to reassess the capital stock, including franchises, of the complainant corporations; and it is to restrain the collection of additional taxes on the basis of these reassessments that these suits are brought.

In substance, it is averred that such reassessments, if enforced, would deprive the complainant corporations of their property without due process of law, and deny to the complainant corporations the equal protection of the laws. Upon these provisions of the
1697 Constitution of the United States the jurisdiction of the federal courts is predicated—the contention being that the cases arise, within the meaning of the Judiciary Act, under the Constitution and laws of the United States.

Upon a previous motion in the traction company cases pending in the Southern District (112 Fed. 607) we held, that stock market quotations, though significant indicia of the value of capital stock, are not the absolute, ultimate measure of such value; that the real purpose of the Illinois statute is to reach capital stock subject to taxation, in accordance, not with the stock market quotation upon segregated shares of stock upon a single day in the year, but according to its stable value as an entirety; that such was the real purpose and judgment of the Supreme Court of the state in the mandamus case; whence it followed that the said board, itself an independent tribunal, was not shorn by the decision of the State Court of its right and duty, upon its own judgment, to ascertain the real value of the property to be assessed.

The fundamental question of fact involved in the present hearing in each of these cases is this: Did the State Board of Equalization, without fraud or mistake, and free from coercion, exercise its judgment in the making of the reassessments complained of? In solving this question we have looked into, not only the reassessments complained of, but also the assessments for the year 1901. A comparison between these records of the State Board is significant. In the case of the Chicago Union Traction Company, the assessment for the year 1901—capital stock and tangible property aggregated—falls from a little over fourteen millions of dollars (the reassessment for 1900)

to about eight millions, two hundred and fifty thousand dollars, a loss of about forty per cent.

In the case of the Chicago Consolidated Traction Company,
1698 the depreciation is from a little over three millions, seven hundred and fifty thousand dollars to about two millions of dollars, or about forty-seven per cent.

In the case of the People's Gas Company, the depreciation is from over twelve millions and a half to about eight millions and a half, or about thirty-two per cent.

In the case of the Chicago City Railway Company, the depreciation is from a little over six millions to a little over four millions and a quarter, or about thirty per cent.

In the case of the Chicago Telephone Company, the depreciation is from a little less than two millions, six hundred thousand dollars to a little over one million, seven hundred thousand dollars, or about thirty-four and one-half per cent.

In the case of the Chicago Edison Company, the depreciation is from a little over two millions, four hundred thousand dollars, to a little over one million, three hundred thousand dollars or about forty-six per cent.

In the case of the South Chicago City Railway, the depreciation is from nearly five hundred seventy thousand dollars to a little less than three hundred thousand dollars, or about forty-seven per cent.

These assessments, so widely divergent, were upon the same properties, by the same board, entered almost on the same day. The dates as of which they spoke were, it is true, a year apart; the one being of the first of April, 1900, the other of the first of April, 1901. But the tide of stock quotations and the tide of current values, were higher on the latter day than the former. If between these two assessments, a considerable disparity should exist, the increase ought to be found in the assessment for 1901, and not in that for 1900.

I can comprehend a possible state of facts showing that
1699 neither of these assessments embodied the real judgment of the State Board. I can comprehend also a state of facts showing that either one or the other may have embodied the board's real judgment. But both can not be vindicated. In the very nature of things, one or the other has been made up under some species of fraud, mistake or coercion; and a few pregnant circumstances convince us that whatever may be said of the assessment for 1901, the reassessment for 1900 cannot be accepted as the independent judgment of the State Board.

One of these is this: The reassessment of each of the complainant corporations for 1900 is a close approximation to the aggregate of its indebtedness and its stock value, as measured by the stock market quotations for April 1, 1900. The board seem to have adopted as its own standard in the making of these reassessments the stock exchange record of that one day of the three hundred and sixty-five, and to have restricted its function to the mere arithmetic of adding up the figures of that day's record. In so doing the board followed, possibly, the interpretation put upon the mandate by the state circuit judge; or the board may, in the exercise of its own judgment,

have so interpreted the mandate; or it may have felt that under all the circumstances, an assessment according to that standard was the safer course for the members personally. But, on either supposition the significance of the fact is not lessened. It goes far toward convincing us that the objective of the board was not the real value of the properties as entireties, but simply what the stock market for one day indicated the value to have been.

What was the real value in fact, of the property reassessed? A determination, approximately of this fact will aid materially in determining whether the board in the adoption of the standard
1700 referred to exercised its real judgment as an independent tribunal in search of the value of the stock as an entirety. To arrive at such value I have looked into the earnings of the several complainants for the year 1900. The disclosures are made from the books of the company kept for the information of the stockholders. They seem to have been kept with no reference, prospectively, to tax valuations. In the absence of better data, I feel justified in accepting them for the purposes of this motion—subject of course, to any inquiry that may affect their accuracy. Except in the case of the Union Traction Company, it is not shown whether the net earnings thus reported have made allowance for current depreciation in the tangible property. In the case of the Union Traction Company, by my direction, an annual reduction, equal to six per cent. of the current value of cars, tracks and machinery has been allowed. This is not, in my judgment an excessive allowance. Railway companies make such reduction each year on the book value of their cars; and it is the rate for depreciation adopted by the Tax Commissions of some of the states.

Nor do the net earnings reported take into account the increase of tax for the year 1900, occasioned by the reassessments as they may be finally modified. It is only fair that the earnings should be reduced by such increase—itself an omitted fixed expenditure—before they are used as the basis of capitalization.

Several other elements in a fair calculation, based on net earnings, have raised questions to which I have given careful consideration. The first of these is upon what rate of the true net earnings the aggregate value of the property should be capitalized. I have fixed the
1701 rate at six per cent. That is the rate adopted in states where assessments are made upon the basis of net earnings. It is less than the rate that some advanced advocates of municipal ownership are willing to guarantee to investors in securities of this character. The rate adopted is, I think, justified by the considerations that usually attend the real investors' purchase of stock. Commonly, net earnings are applicable, first, to preferred securities, such as bonds or preferred stock. We may assume that the preferred half of a capitalization that earns as an entirety, six per cent. may be considered worth par upon the basis of five per cent. But when it comes to second half, involving as it does, much more the uncertainties of the future, the security will not commonly be regarded as good at par upon the basis of even six per cent., unless there is a margin of earnings over and above the dividends paid; for no investor feels

secure of a dividend at six per cent. next year, simply because the company has earned it this. It is probably fair to say that net earnings, accruing through several years, at the rate of five per cent. upon the preferred half of the securities, and of seven per cent. upon the remaining half, would make both securities worth their par value; and this would be equivalent to six per cent. upon the whole.

Another element entering into the calculation is this: Should the capitalization thus arrived at be equalized to the assessment of the property of the state? The record convinces me that the assessment of other property throughout the state, including railroad, for the year 1900, as finally equalized by the State Board of Equalization did not exceed seventy per cent. of the cash value; and that such standard was not adopted by the State Board unintentionally or through inadvertence, but deliberately as a means of arriving at an equalization of taxable values generally throughout the state. May the Board now, or the court in review of the board, upon these re-
assessments disregard this standard? I think not, and to
1702 that question have given careful inquiry.

The Illinois law, constitutional and statutory, upon the subject is substantially the following:

"The general assembly shall provide such revenues as may be needful by levying a tax by valuation so that every person and corporation shall pay a tax in proportion to the value of his, her or its property, such value to be ascertained by some person or persons to be elected or appointed in such manner as the general assembly shall direct and not otherwise; but the general assembly shall have power to tax * * * insurance, telegraph and express interests or business, venders of patents, and persons or corporations owning or using franchises and privileges in such manner as it shall from time to time direct by general law, uniform as to the class upon which it operates." Const. 1870, art. 9, p. 1.

"Real property shall be valued as follows: First, each tract or lot of real property shall be valued at its fair cash value estimated at the price it would bring at a fair voluntary sale." Hurd's Rev. St. 1899, c. 120 p. 4.

"Personal property shall be valued as follows: First, all personal property, except as herein otherwise directed shall be valued at its fair cash value. * * * Fourth, the capital stock of all companies or associations now or hereafter created under the laws of this state, except those required to be assessed by the local assessors and hereinafter provided, shall be so valued by the State Board of Equalization as to ascertain and determine respectively the fair cash value of such capital stock, including the franchise, over and above the assessed value of the tangible property of such company or association," arriving at such valuation from the best information obtainable, taking into consideration, among other things, the market
value of their shares of stock, and the total amount of their
1703 indebtedness. Hurd's Rev. St. 1899, c. 120, p. 3; State *v.* State Board of Equalization (Ill.), 61 N. E. 339.

These provisions, read together, disclose plainly enough the policy of the state respecting the listing of property for taxation. The

General Assembly is given power, it is true, to set, as a class apart, persons or corporations owning or using franchises and privileges, and so doing, to tax them either upon a valuation, or at a ratio, different from the other classes of property of the state. But until the legislative will is thus exercised all the property of the state is to bear uniformly the burdens of taxation. Uniformity is the dominating mandate of the Constitution. It is the prime maxim in almost every system of taxation, where justice and fair play are sought. It will not be interpreted out of the State's policy unless a clear legislative intention to that end is evinced.

Has the General Assembly in any of the acts referred to evinced an intention to depart from this general mandate of the Constitution and this general maxim of taxation generally? In this connection, two features of the revenue law are pointed out to me. It is said that by section three, above quoted, the capital stock of persons and corporations, such as complainants, are to be so valued by the State Board as to ascertain their fair "cash value;" also that the provisions relating to the listing of railroad rolling stock, tracks, etc., in the several taxing districts show that railroads, at least, are to be regarded as a class apart. But neither of these features of the revenue law prove the point claimed. The second relates plainly, not to standards of valuation, or to uniformity or want of uniformity therein, but to the distribution among the districts of the fruits of taxation by whatever standard laid. The first—the cash
1704 value clause—is equally inconclusive when a comprehensive view of the entire taxing machinery of the state is taken.

That machinery begins with the listing of the property subject to taxation. This ordinarily is done by the local assessors, and extends to all classes of real property, moneys, credits, stocks and personal property generally. It is the first step towards ascertaining each citizen's rightful proportion of contribution due to the state under the constitutional provision already quoted.

But this assessment is made by different men in different districts. They may entertain divergent conceptions respecting the value of the same kinds of property; they may be unfairly prejudiced against individual tax-payers and unfairly inclined to favor others. To counteract the unequal conditions thus made possible, County Boards, or Boards of Review, have been created. It is the function of these boards to examine the assessments as of individuals, with a view to the correction of errors and inequalities, and to examine them as a whole with a view to determine their relative equality as between the different primary taxing districts. This is the first process of equalization, and its prime purpose is to insure uniformity as between people of the same general taxing district.

But these local reviewing boards may themselves have divergent views respecting the values of the same kind of property, and thus unless there be a central Board of Equalization, there might creep in as between the different general taxing districts of the state, inequalities in taxation. Hence, a final reviewing board—the State Board of Equalization. It is elected one member from each congressional district, and its general function is to bring the assess-

ments of the several districts to the same relative standard, so that no district of the state may be compelled to pay a disproportionate part of the state's taxes. It has no power to pass over the heads of
1705 the local equalizing boards to reach or change individual assessments. Its sole function is to bring about, as nearly as possible, a common level in the valuations throughout the state. Here again the prime purpose of the provision is uniformity.

Now, when the General Assembly came to laying a tax upon the capital stock of franchise corporations, there arose the necessity of lodging the power of initial assessments somewhere in the state's machinery. The assessment initially of the tangible property of these franchise corporations was left with the local assessors. But in the assessment of the capital stock, as an entirety, a difficulty appeared not present in the assessment of local properties. The franchise corporations in great part, are the railways of the state. They cross her entire area—north and south, east and west—running in and out of taxing districts. The capital stock of each, as distinguished from its tangible property, is in its nature an entirety, and its valuation for taxing purposes could not, therefore, in the very nature of things be cut up into taxing districts. For the assessment of the capital stock of such corporations the initial assessor must necessarily be one whose jurisdiction comprehends the entire line within the state.

But though the section in question made the State Board, in this class of properties, the initial assessor and charged it with assessing such capital stock at its fair cash value, nothing, either in terms or by inference, is by the section taken from the board's general function and duty as an equalizer. There is in the section no evidence that the general assembly intended to deprive the board of this duty of equalization respecting capital stock. The employment of the words "cash value" is not in point; for cash value is made the primary basis of the valuation of other properties—properties finally equalized below such value—as well. Plainly the one
1706 thought in the mind of the general assembly in enacting section three was, in addition to laying such tax, to find a place where the power of initial assessment could be lodged so as to be effectively used; not intending thereby to throw out of adjustment the equalizing functions of the taxing machinery. In my opinion, uniformity is still the statutory policy of the state in the levying of taxes, with respect of franchise corporations, as well as of other properties. Accordingly, it was imperative that before the reassessments for 1900 were entered there should have been such deductions as would have equalized the valuation adopted with the valuations placed upon the other properties of the state. This cannot be questioned on any view, to the extent that such deduction was necessary to equalize the assessment of the complainant corporations with the assessments of railroad corporations for the same year.

Now if we take the net earnings for 1900 (and this year does not appear to have been an exceptional one) as the basis of valuation, capitalize them at the ratio named—six per cent.—equalize this with the other property of the state by deducting thirty per cent., and

then divide by five, according to the law in force, adding thereto the tangible property, we will arrive approximately at the real figures at which the assessments, including tangible property, should have been entered. Allowance, however, in these net earnings must be first made for the payment of the increased taxes, for to that extent, the net earnings reported do not disclose a fixed expenditure of the company for that year. The result in round figures can be stated as follows:

The reassessment for the Chicago Union Traction Company should have been about seven millions seven hundred and sixty-three thousand dollars, or about six millions two hundred and fifty thousand dollars less than the reassessment complained of, and within
1707 four and one-half per cent. of the assessment of 1901.

That of the Chicago Consolidated Traction Company should have been about six hundred and twenty-one thousand dollars, or about three millions two hundred thousand dollars less than the reassessment complained of.

That of the People's Gas Company should have been about eight millions five hundred and one thousand dollars, or about four millions one hundred and thirty thousand dollars less than the reassessment complained of, and within two per cent. of the assessment for 1901.

That of the Chicago City Railway Company should have been about four millions and fifteen thousand dollars, or about two millions one hundred and eight thousand dollars less than the reassessment complained of, and within five per cent. of the assessment for 1901.

That of the Chicago Telephone Company should have been about one million eight hundred and fifty thousand dollars, or about seven hundred and fifty thousand dollars less than the reassessment complained of, and within seven per cent. of the assessment for 1901.

That of the Chicago Edison Company should have been not to exceed one million eight hundred thousand dollars, or more than six hundred thousand dollars less than the reassessment complained of.

The South Chicago City Railway Company shows no net earnings; indeed it seems to have been operated at a loss. There is no basis, therefore, upon which to assess the capital stock over and above tangible property.

Now what do these comparisons show? The disparity between the reassessments complained of and the figures at which they should have been entered, upon the basis of net earnings, runs from thirty to forty-seven per cent. In cases where the disparity is about thirty per cent. I might entertain the explanation that the board
1708 felt itself under no obligation to equalize the reassessments with the *property* of the *other* state, hence the disparity. But, considered in connection with the other facts disclosed, the explanation is untenable. It does not explain the action of the board in cases where the disparity runs as high as forty-seven per cent.; and it is contradicted by the view of the board entertained three weeks later, in the assessment for the year 1901 when equalization was

allowed. A significant circumstance too, tending to show what was the real judgment of the board as between the reassessments complained of and the assessments for 1901, is the fact that except in the case of the Edison Company the assessments for 1901 run only from two to seven per cent. apart from our calculation of assessments based upon earning power.

The sum of it all is, that by whatsoever causes brought about, the reassessments complained of did not in my opinion, express the real judgment of the State Board as an independent tribunal, and were therefore in effect, fictitious judgments, for the impeachment of which somewhere the law holds out opportunity to the parties injured; and the direct evidence of the members of the State Board called as witnesses, sustains this view. Is the remedy prayed for in the bills within the complainants' legal opportunities?

Taxes are enforced contributions levied by the state upon the property of individuals by virtue of its sovereignty, for the support of government and for the public needs. The money thus taken, until taken, is, as much as real estate or chattels, property within the meaning of the Constitution of the United States; and the taking of such money is a taking of property, as much so, for instance, as the taking of private land for some public work authorized by some law of the state or of Congress.

Due process of law, as applied to the cases under considera-
1709 tion, is the authorized procedure whereby the property of the individual can be taken by the state; it includes the initial authority to levy taxes; the purpose to which money thus raised is to be devoted; and the instrumentalities that distribute the burden upon the citizens. Ours is a government of laws and not of individual officers, or of boards, or of men.

Any substantial departure, therefore, in the collection of taxes, from the law, either as to the authority for a tax, or its purpose, or the provisions for the just distribution of its burdens, is a departure from due process of law; and the enforced collection of taxes, in the laying and distributing of which there is a substantial departure from law, is the depriving of a citizen of his property without due process of law.

A substantial step in the taxing process as fixed by the law of Illinois; a step essential to the equal distribution of the burdens of taxation; is the decision and judgment of the State Board of Equalization. The Board's place in the taxing system is that of a quasi judicial body. Its judgment affects, as keenly as that of any court, the property interests collectively of the several districts of the state, and directly and individually, of the persons and corporations owning franchises. No court can by its judgment grasp more completely what would otherwise remain the property of the individual. In no other tribunal can there be found apter illustration of the power of the state to compel the individual to deliver up his property under the stress of law. It needs no argument to show that power, such as this, is only exercised rightly when exercised judicially.

The prime quality of every judgment, without which it is no judgment, is, that it is the final thought of the judge on the sub-

ject submitted, unaffected by extrinsic influences. This im-
1710 plies freedom of mind—not merely theoretically but prac-
tically—the freedom of mind that does not fear, that has no wish of its own, that sees nothing not seen through the lenses of the law. Judgments honestly made up in such an atmosphere, though subject to review for error, are due process of law; judgments affected by fraud or fear, however solemnly entered, are as nothing when weighed by the constitutional guaranties thrown around liberty and property.

It is urged, however, that the constitutional guaranty is a prohibition only against the state; that to the state is to be attributed nothing in the way of deprivation of life, liberty or property, except as such deprivation comes through the state's legislation; that the mere acts of the officers of the state, acts not based on legislation, under no circumstances can amount to a violation of this constitutional guaranty; and the following cases are cited in support of this view:

Virginia *vs.* Rives, 100 U. S. 313,
Civil Rights Cases, 109 U. S. 3,
Missouri *vs.* Dockery, 191 U. S. 165,
Barney *vs.* City of New York, 193 U. S. 430,
Coulter *vs.* L. & N. R. R. Co. 196 U. S. 599.

The difficulty about these citations is, that except Coulter *vs.* L. & N. R. R. Co., the question presented here was not involved; and in Coulter *vs.* L. & N. R. R. Co., the question presented here is expressly left undecided. It is of course true that where, as in Virginia *vs.* Rives, the state has provided a uniform system of selecting juries applicable to white and colored alike, the misconduct of a subordinate officer, whereby a jury is unfairly made up, will not make a case of deprivation, by the state, of life, liberty or property without due process of law, the action of the officer not having been adopted by the state. For it does not follow that the court reviewing the case in which the misconduct occurred will not correct the wrong, and thus restore to the injured one his right to a trial under
due process of law. It is true also, that where the state has
1711 provided a method of condemning property under which, if enforced, no property would be taken without full compensation, the mere apprehension that the method will not be followed, whereby property would be taken without compensation, does not make a case of deprivation, by the state, of property without due process of law; for until the final court having power to review the condemnation proceedings has confirmed the thing apprehended, it cannot be said that the state has finally acted. Indeed, it can never be said that the state has done or confirmed a wrong, until the last word of the state, through the department that speaks for the state in the particular matter involved, has been spoken.

But when that last word has been spoken, whether it be by the legislature, or by a court having the last word to speak in the matter involved, or by the executive, the resulting effect upon the rights complained of is the act of the state—as much so, whether the word

be spoken either by the executive or by the judiciary, or by the legislature, as if the last word had been spoken by the people of the state in general convention.

Now the levying, assessment, and collection of taxes, is through the administrative boards of the state. So far as capital stock is concerned, the State Board of Equalization is the final board in the process. The word that board speaks is the last word of the state on the subject; for instantly that word is spoken, the tax is extended on the collector's books, thus giving the collector power to enforce payment without any further proceedings—the assessment by the board and its extension by the collector amounting to execution; the process in this respect being different from the enforcement of taxes on real property. Illinois Revenue Statutes, Chapter 120, Sec. 156. Conkling *vs.* Springfield, 132 Ill. 420. True, the assessment
1712 entered by this last executive board of the state may be impeached, as any other judgment is impeached, for fraud, duress, or coercion. That was the ground upon which the mandamus case proceeded. But such suit to impeach is not a part of the taxing process—not a part of the State's action toward levying, assessing, and collecting taxes. On the contrary a suit such as that is a distinct suit in equity, separate and apart altogether from the taxing process—a resort to the judicial power as a refuge from the executive; and when the suit is between citizens of different states, or is one that arises under the constitution and laws of the United States, the judicial power that may be invoked is the judicial power of the United States Courts.

It will not do in this connection to say that the judicial power thus invoked, when exercised by the state Courts, is still the voice of the state—that the state is not committed to the executive wrong complained of until its courts have spoken. Were there a right of appeal, *as a part of the taxing process*, from the State Board of Equalization to the courts, that view might prevail. But no such appeal lies. The suit is not to review the assessment, but to set it aside. The suit lies as surely in the United States Courts, (the necessary basis of jurisdiction existing) as it does in the state courts. It is in every sense a resort to the courts, national or state, to protect the party complaining from what otherwise would be the consummated act of the state.

Let us see then how the suggestion, that the judicial power thus invoked, when exercised by the state, is the voice of the state, logically works out. The State Board, for illustration, without exercising any independent honest judgment, assesses the capital stock of A, and also the capital stock of B, thus depriving them both, but for judicial restraint, of due process of law. A is a citizen of a state other than the one where the tax is laid; B is a citizen of the
1713 state where the tax is laid. A therefore may bring his action in the federal court; B must bring his action in the state court. But though the federal court is no part of the state, the suits thus brought are identical in purpose. Can we say that so far as A is concerned, the action of the Board is the final act of the state, whereby the property would have been taken, without due

process of law, but for the injunction suit in the federal court; but that so far as B is concerned, though the injunction suit is precisely of the same character, the act of the Board is not the final action of the State. Does the finality of the taxing act depend on the accident of citizenship?

But it may be suggested that this view would bring every complaint, respecting the assessment of taxes, before the United States court, on the ground that any departure from law, in the assessment of taxes, is the taking of property without due process of law. That suggestion confounds "due process of law" with another and entirely distinct right—the right to have the law in its details correctly interpreted and enforced. No attempt to comprehensively define "due process of law" has ever been attempted. Generally speaking, it may be said to be the structural plan of the law of the land, as distinguished from the details—the substantial steps and proceedings that characterize the law of the land as a system, as distinguished from the minutiæ—but the courts have left themselves free to decide every case upon its own particular circumstances. And it seems clear to me that the taking of property without the honest independent judgment of the last body that has a right to speak for the state, in its process of assessing and collecting taxes—a body that confessedly is a quasi judicial body—is the taking of property without due process of law within the fourteenth amendment.

1714 The sum of all this as applied to the cases under consideration is that the reassessments complained of do not embody the real judgment of the board, in either the assessments or the equalization of the capital stock of complainants for the year 1900; and that in the absence of such real judgment, the threatened collection of taxes on the basis of the fictitious entry, would be to deprive complainants of their property without due process of law.

I have no doubt that complainants may intrench themselves against this invasion by the writ of injunction. One of the primary grounds of equity jurisdiction is to reach cases involving mistake, fraud or coercion, and the relief necessary to their correction. The cases under consideration come clearly within this jurisdiction. It is incomprehensible that the complainants may not avert this threatened invasion of their rights—that they must first yield and then turn prosecutors in a court of law to recover their loss. The fundamental guarantee of the Constitution must not be thus emasculated.

But injunctions issue as a matter of discretion and conscience, not of right. The court may always attach equitable conditions, and the cases under consideration present to my mind a situation where conditions should be required.

I am not unmindful of the fact that when the temporary injunction was granted, the original assessments for 1900 were much less than any fair administration of the law would have made them, and that complainants could not justly escape from this evasion of their just share of the burdens of taxation. Nor do I shut out facts known to all others, that the school funds—the first and most needful outlay for our rising citizenship—were running low, partly in consequence of the taxes withheld. Before the temporary injunction is-

sued, therefore, I required the payment to the proper officers
1715 by the complainants, of their taxes for the year 1900, according to the following rule:

The basis shall be the true net earnings of the several complainants for the year covering April 1, 1900, proper allowance being made for depreciation and replacement, but not for extensions; and reduced further by the amount of additional taxes that the enforcement of this rule produces. Upon this basis the value of complainants' capital stock, including franchises and tangible property, shall be capitalized on a ratio of six per cent.; this equalized by reduction of thirty per cent., and then divided by five. The sums thus produced will be regarded as the true reassessments for the year 1900. Upon this the tax will be extended at the true rate for 1900, exclusive of interest and penalties, not to exceed eight and thirty-seven hundredths per cent. from which will be subtracted the taxes already paid, and the balance will be the sum required. I allow no penalties, for the reason that the reassessments complained of are void, and complainants could not reasonably pay until a proper basis was fixed, either by the board or the courts.

The taxes for the year 1900 having been calculated and paid upon the foregoing basis, a decree may be entered finding the equities of the case in favor of the complainants, and making the temporary injunction permanent; the complainants, however, being required to pay the costs of the suit.

PETER S. GROSSCUP,
Circuit Judge.

(Endorsed:) Filed June 25, 1906 Marshall E. Sampsell, Clerk.

1715½ And on to-wit: the twenty-fifth day of July, being one of the days of the regular July term of said Court, 1906, in the record of proceedings thereof in said entitled cause before the Hon. Peter S. Grosscup, Circuit Judge, appears the following entry to-wit:

1716 In the Circuit Court of the United States, Northern District of Illinois, Eastern Division.

26609.

CHICAGO UNION TRACTION COMPANY
vs.
SAMUEL B. RAYMOND ET AL.

This cause came on to be heard further at this term, and was argued by counsel, and thereupon upon consideration thereof,

It is ordered that all objections and exceptions to the Master's Reports be and the same are hereby over-ruled, and that the Master's Reports and each of them be and they are hereby approved and confirmed; and the Court finds that all of the material allegations of the bill of complaint are sustained by the evidence and that the

equities of the case are with the complainant; and thereupon the court doth order, adjudge and decree as follows:

That the assessment made by the the State Board of Equalization of the State of Illinois at its session in 1901, against the complainant, the Chicago
1717 Union Traction Company upon its capital stock for the year 1900, amounting to.... $29,370.
and upon the capital stock of The North Chicago City Railway Company, amounting to..... 1,020,000.
and upon the capital stock of the North Chicago Street Railroad Company, amounting to..... 3,641,600.
and upon the capital stock of the Chicago, West Division Railway Company, amounting to..... 2,120,500.
and upon the capital stock of the West Chicago Street Railroad Company amounting to..... 4,814,220.
and upon the capital stock of the Chicago Passenger Railway Company amounting to..... 348,000.

such assessments in the aggregate amounting to.... $11,973,690,

was made under the coercion and influence of a writ of mandamus issued by the Circuit Court of Sangamon County in the State of Illinois and did not represent the real and independent judgment of the State Board of Equalization, and that the assessments made by the State Board of Equalization at its meeting held in 1901 upon the capital stock of said complainant, and upon the capital stock of the said corporations hereinabove referred to (being lessor corporations of said Chicago Union Traction Company), and upon the capital stock of the other corporations named in the writ of mandamus above mentioned, for the year 1900, were in fact made upon a materially different basis from that upon which the capital stock of all other corporations of the same class were assessed by the State Board of Equalization for the year 1900, and also upon a basis materially different from that upon which other taxable
1718 property in the State of Illinois was assessed for the year 1900; that said assessment made in 1901 on the capital stock of the complainant and its aforesaid lessor corporations was made under the coercion and influence of said writ of mandamus without the exercise or application of the judgment of the State Board of Equalization or the members thereof to the ascertainment of the value of said capital stock, and without the State Board of Equalization, either in fact or in form, taking into consideration the basis upon which all other taxable property in the State of Illinois was assessed and taxed for the year 1900, and without in fact or in form equalizing the value or assessment of the capital stock of the said complainant for the year 1900 with all or any of the assessments made upon the other taxable property in the State of Illinois for the year 1900, with the result that the said assessment on the capital stock of complainant and upon that of its aforesaid lessor corporations made in the year 1901 for the year 1900, was made on a much

higher basis than that upon which the other taxable property of the State of Illinois was assessed and taxed for the year 1900; and that such assessment upon said capital stock for the year 1900 was and is unjust and inequitable; that the making of such assessment as aforesaid in 1901 upon the capital stock of the said complainant and upon that of its aforesaid lessor corporations and the extension of the taxes thereon and the attempt to enforce the payment of the taxes so extended from complainant and from its aforesaid lessor corporations, was and is a violation of the Fourteenth Amendment
1719 to the Constitution of the United States, and that the attempt to enforce the collection from said complainant and from its aforesaid lessor corporations of the taxes extended on said reassessment will, unless restrained, result in a multiplicity of suits.

An order was entered herein on the twenty-eighth day of June, 1902, as a condition precedent to the granting of the temporary relief prayed for in the bill of complaint herein that complainant should pay in addition to the taxes already paid upon the first or original capital stock assessment for the year 1900, the further sum of $134,350.03, making a total capital stock tax to be paid by the complainant for 1900 of $187,252.03, which is found and decreed by the Court to be all that complainant and its aforesaid lessor corporations should equitably be required to pay as a capital stock tax for the year 1900. Said additional sum of $134,350.03 has been paid by complainant to the County Treasurer of Cook County in accordance with said order, making the total amount paid by complainant as taxes upon its capital stock and upon the capital stock of its aforesaid lessor corporations for the year 1900, the said sum of $187,252.03.

It is therefore further ordered, adjudged and decreed that the said assessment of $11,973,690, on the capital stock of the complainant and on the capital stock of the aforesaid lessor corporations of complainant made by the State Board of Equalization in the year 1901 for the year 1900 and the taxes levied and extended thereon
1720 and now spread upon the books of the tax collection agency of the County of Cook and State of Illinois for collection, be and they are and each of them is illegal, null and void, and that the defendants, Julius Salomon, Town Collector of the Town of North Chicago, and his successor and successors in office as such collector, and Samuel B. Raymond, County Treasurer of Cook County, Illinois, and *ex-officio* County Collector of said County, his successor and successors in office as such County Treasurer and *ex-officio* County Collector, and the defendant the City of Chicago, and each of them, and each and every of their respective agents, deputies, servants, attorneys and representatives be and they are and each of them is hereby perpetually enjoined and restrained from in any wise levying, or collecting or in any manner attempting, directly or indirectly, to levy or collect or to enforce against the complainant, or against any of its property, or against the aforesaid lessor corporations of the complainant, or against any of their property or the

property of either of them, said tax or taxes, or any or either of them or any part thereof.

It is further adjudged that the costs be paid by complainant.

1721 And on to-wit: the tenth day of August, being one of the days of the regular July term of said Court, 1906, in the record of proceedings thereof in said entitled cause before the Hon. Peter S. Grosscup, Circuit Judge, appears as of July 25, 1906, the following entry to-wit:

1722 In the Circuit Court of the United States, Northern District of Illinois, Eastern Division.

No. 26609.

CHICAGO UNION TRACTION COMPANY
vs.
SAMUEL B. RAYMOND ET AL.

This cause this day coming on to be heard, after due notice to all the parties in this cause; and it appearing to the court that Julius Salomon, Town Collector of the Town of North Chicago, had died prior to the entry of the final decree in this cause; and it also appearing to the court that prior thereto, the term of office of Samuel B. Raymond as County Collector had expired, and that John J. Hanberg had been duly elected and qualified as his successor in office; and it appearing that prior to the entry of the final decree herein, said John J. Hanberg, as successor in office of said Samuel B. Raymond had entered his appearance in this cause and was made a party defendant, and had adopted all the pleadings and proceedings of the other defendants to this cause and agreed not to introduce any new evidence.

Now it is hereby ordered that the final decree herein entered on the 25th day of July, 1906, be amended by striking out after the words "null and void" in the 4th line on Page 5 of said decree, the following language:—"And the defendants, Julius Salomon, Town Collector of the Town of North Chicago and his successor and successors in office as such Collector" and by inserting after the
1723 words "City of Chicago" in the 11th line on Page 5 of said decree, the following language:—"And John J. Hanberg, successor in office to the said Samuel B. Raymond, as said County Treasurer of Cook County, Illinois, and *ex-officio* County Collector of Cook County, Illinois, and *ex-officio* Town Collector of the various towns within the City of Chicago, and his successor and successors in office," this order entered *nunc pro tunc* as of July 25th 1906.

1724 And on to-wit: the thirteenth day of August, being one of the days of the regular July term of said Court, 1906, in the record of proceedings thereof in said entitled cause before the Hon.

Peter S. Grosscup, Circuit Judge, appears the following entry to-wit:

Order of August 13, 1906.

26609.

CHICAGO UNION TRACTION COMPANY
vs.
JULIUS SALOMON ET AL.

Leave is hereby given John J. Hanberg, County Treasurer to file his appearance as one of the defendants herein. This order to be entered *nunc pro tunc* as of July 25th, 1906.

1725 And on to-wit: the thirteenth day of August, 1906, came John J. Hanberg and entered his appearance in said entitled cause as of July twenty-fifth, 1906, in words and figures following to-wit:

Appearance of John J. Hanberg.

In the Circuit Court of the United States, Northern District of Illinois, Eastern Division.

No. 26609.

CHICAGO UNION TRACTION COMPANY, Complainant,
vs.
SAMUEL B. RAYMOND, County Collector, ET AL., Defendants.

Now comes John J. Hanberg, County Treasurer of Cook County, Illinois, and *ex-officio* County Collector of Cook County Illinois, and *ex-officio* Town Collector of the various towns within the City of Chicago, and enters his appearance in this case and asks to be made a party defendant; adopts all the pleadings and proceedings of the other defendants in this cause, and agrees not to introduce any new evidence.

JOHN J. HANBERG,
County Treasurer, etc., Above Named.
By HARRY A. LEWIS AND
WM. F. STRUCKMANN,
His Solicitors.

(Endorsed:) Filed Aug. 13, 1906 as of July 25, 1906, Marshall E. Sampsell, Clerk.

1726 Be it remembered that on this day to-wit: the tenth day of August, 1906, there was filed in the clerk's office of said Court in said entitled cause a certain Certificate in words and figures following to-wit:

Certificate.

In the Circuit Court of the United States, Northern District of Illinois.

No. 26609.

CHICAGO UNION TRACTION COMPANY, Complainant,
vs.
SAMUEL B. RAYMOND, County Collector, ET AL.

Be it remembered that on the final hearing of the above entitled cause, before His Honor Judge Grosscup, on the 5th day of June, 1906, counsel for the City of Chicago made and insisted upon before the Court each and every objection in reference to the admission and exclusion of evidence made by the defendants or any of them before the Master, as shown in the various Masters' reports now on file in this cause, and said objections and each of them were overruled by the Court, to which rulings and to each of them counsel for the City of Chicago excepted; and counsel for the City of Chicago also objected to the Court hearing or considering any oral evidence for the purpose of explaining, varying or contradicting the official acts, records and proceedings of the said Board of Equalization of the State of Illinois for the years 1900 and 1901 in reference to the capital stock assessment levied by the State Board of Equalization of the State of Illinois against the complainant in the year 1901 as and for the year 1900.

Said objection was overruled by the Court, to which ruling
1727 counsel for the City of Chicago excepted.

The court basing its decree not upon the findings of fact by the Master but upon the evidence contained in the Master's report.

P. S. GROSSCUP.

(Endorsed:) Filed Aug. 10, 1906. Marshall E. Sampsell, Clerk.

1728 And on to-wit: the tenth day of August, 1906, came the defendants in said entitled cause by their solicitors and filed in the clerk's office of said Court their certain Petition for Appeal in words and figures following to-wit:

1729 *Petition for Appeal.*

In the Circuit Court of the United States, Northern Division of Illinois, Eastern Division.

No. 26609.

CHICAGO UNION TRACTION COMPANY, Complainant,
vs.
SAMUEL B. RAYMOND, County Treasurer of Cook County, Illinois, and *ex-officio* County Collector, Cook County, Illinois, and JOHN J. HANBERG, His Successor as County Treasurer of Cook County, Illinois, and *ex-officio* County Collector of Cook County, Illinois, and *ex-officio* Town Collector of the Town of North Chicago, and THE CITY OF CHICAGO, Defendants.

Petition for Appeal.

The above named defendants, Samuel B. Raymond, County Treasurer of Cook County, Illinois, and *ex-officio* County Collector, Cook County, Illinois, and John J. Hanberg, his successor as County Treasurer of Cook County, Illinois, and *ex-officio* County Collector of Cook County, Illinois, and *ex-officio* Town Collector of the Town of North Chicago and the City of Chicago, and each of them, believing themselves to be aggri-ved by the order and decree of this Court, made and entered on the 25th day of July, A. D. 1906, whereby the said defendants and each of them and each and every of the
1730 officers, agents and employés of the said defendants are perpetually enjoined and restrained from in any wise levying or collecting or in any manner attempting to levy or collect or to enforce against the complainant the taxes or any or either of them, made and levied by the State Board of Equalization in the year 1901 for the year 1900, said taxes amounting to the sum of $11,973,690— all of which appears of record in said Court, and which decree is more fully set forth in the record in said cause, and the said above named defendants hereby jointly and severally pray an appeal from said order and decree to the Supreme Court of the United States.

HARRY A. LEWIS,
WILLIAM F. STRUCKMANN,
JAMES HAMILTON LEWIS AND
DAVID K. TONE.
Solicitors for the Above Named Defendants.

The above appeal is allowed, and the appeal bond is fixed at $200, said bond to be approved by the Clerk of this Court.

P. S. GROSSCUP.

(Endorsed:) Filed Aug. 10, 1906. Marshall E. Sampsell, Clerk.

1731 And on to-wit: the tenth day of August, 1906, come the defendants in said entitled cause by their solicitors and filed

in the clerk's office of said Court their certain Assignment of Errors in words and figures following to-wit:

1732 In the Circuit Court of the United States, Northern District of Illinois, Eastern Division.

No. 26609.

CHICAGO UNION TRACTION COMPANY, Complainant,
vs.
SAMUEL B. RAYMOND, County Treasurer of Cook County, Illinois, and *ex-officio* County Collector, Cook County, Illinois, and JOHN J. HANBERG, His Successor as County Treasurer of Cook County, Illinois, and *ex-officio* County Collector of Cook County, Illinois, and *ex-officio* Town Collector of the Town of North Chicago, and THE CITY OF CHICAGO, Defendants.

Assignment of Errors.

The above named defendants, Samuel B. Raymond, County Treasurer of Cook County, Illinois, and *ex-officio* County Collector, Cook County, Illinois, and John J. Hanberg, his successor as County Treasurer of Cook County, Illinois, and *ex-officio* County Collector of Cook County, Illinois, and *ex-officio* Town Collector of the Town of North Chicago, and The City of Chicago, jointly and each of them separately and severally show that in the record and proceedings in the above entitled cause and in the decree made herein July 25th, 1906, manifest error has occurred, to the prejudice of these defendants, and each of them, especially in the following particulars:

First. The said Circuit Court erred in failing and refusing to dismiss this cause for want of jurisdiction in a Federal Court, appearing upon the face of complainant's bill of complaint.

Second. The said Circuit Court erred in failing to dismiss complainant's bill of complaint for want of jurisdiction, because the undisputed evidence in this record shows that a circuit court of the United States is without jurisdiction to hear and determine the matters and things charged in complainant's bill.

Third. The said Circuit Court erred in refusing to hold that the allegations of the complainant's bill of complaint show that complainant has not been denied by the State of Illinois or its officers, any right, privilege or immunity guaranteed to the complain-
1733 ant by the Fourteenth Amendment to the Constitution of the United States.

Fourth. The said Circuit Court erred in refusing to hold that the allegations of complainant's bill of complaint show that the complainant has not been deprived of its property without due process of law, in violation of the Constitution of the United States.

Fifth. The said Circuit Court erred in refusing to hold that the State of Illinois had not denied to the complainant the equal protection of its laws within its jurisdiction.

Sixth. The said Circuit Court erred in refusing to find that the

sole grievance complained of in complainant's bill of complaint is that the officers of the State of Illinois charged with the duty of making a fair and equal assessment of the complainant's capital stock, have made an assessment that is unfair and unequal, contrary to and in violation of the Constitution and the Laws of the State of Illinois; and said Circuit Court likewise erred in assuming and retaining jurisdiction of this cause, when, upon the face of complainant's bill of complaint, it appears that the said Circuit Court was without jurisdiction.

Seventh. The said Circuit Court erred in refusing to hold that inasmuch as the complainant and defendants were all citizens of and residents of the State of Illinois, a Federal Court had no jurisdiction in this cause to hear and determine the fairness, equality or regularity of the assessment made against the complainant and its said lessor corporations, and the said Circuit Court erred in
1734 refusing to dismiss this cause for want of jurisdiction.

Eighth. The said Circuit Court erred in entering upon a calculation as to the amount of taxes to be paid by the complainant and its said lessor corporations upon its capital stock for the year 1900 and in finding and determining the amount of said taxes, for said Circuit Court should have held that the determination as to the amount of taxes to be paid by all persons within the State of Illinois was a matter exclusively committed by the laws of Illinois to the assessing officers of the State of Illinois.

Ninth. The said Circuit Court erred in overruling the objections and exceptions and each and every of said objections and each and every of said exceptions to the said Masters' Reports and to each of them.

Tenth. The said Circuit Court erred in approving and confirming the Masters' Reports and each of them, filed in this cause.

Eleventh. The said Circuit Court erred in failing and refusing to sustain the objections and each and every of the same filed by the defendants to said Masters' Reports and to each of said reports.

Twelfth. The said Circuit Court erred in finding that all of the material allegations of the bill of complaint are sustained by the evidence and likewise in finding that the equities of the case are with the complainant.

Thirteenth. The said Circuit Court erred in failing to find that the material allegations of the bill of complaint in this cause have not been proved by any competent evidence.

1735 Fourteenth. The said Circuit Court erred in finding that the assessment made by the State Board of Equalization of the State of Illinois at its session in 1901 against the Complainant, the Chicago Union Traction Company, upon its capital stock for the year 1900, amounting to $29,370, and upon the capital stock of The North Chicago City Railway Company, amounting to $1,020,000, and upon the capital stock of the North Chicago Street Railroad Company, amounting to $3,611,600, and upon the capital stock of the Chicago West Division Railway Company, amounting to $2,120,500, and upon the capital stock of the West Chicago Street Railroad Company, amounting to $4,814,220, and upon the capital

stock of the Chicago Passenger Railway Company, amounting to $348,000, such assessments in the aggregate amounting to $11,973,690, was made under the coercion and influence of a Writ of Mandamus issued by the Circuit Court of Sangamon County, in the State of Illinois, and did not represent the real and independent judgment of the said Board of Equalization.

Fifteenth. The said Circuit Court erred in failing and refusing to find that the assessment, amounting in the aggregate to $11,973,690, made by the State Board of Equalization of the State of Illinois at its session in 1901 against the complainant, the Chicago Union Traction Company, upon its capital stock for the year 1900 and upon the capital stock of the lessor corporations of said Chicago Union Traction Company, named in said decree, also for the year 1900, were each and every of them made by the said State Board of Equalization in the exercise of its own judgment and upon its official responsibility.

1736 Sixteenth. The said Circuit Court erred in finding that the assessments made by the State Board of Equalization at its meeting, held in 1901, upon the capital stock of said complainant and upon the capital stock of the lessor corporations of said Chicago Union Traction Company, and upon the capital stock of the other corporations, for the year 1900, named in the Writ of Mandamus, issuing from the Circuit Court of Sangamon County, Illinois, were in fact made upon a materially different basis from that upon which the capital stock of all other corporations of the same class were assessed by the State Board of Equalization for the year 1900, and also upon a basis materially different from that upon which other taxable property in the State of Illinois was assessed for the year 1900.

Seventeenth. The said Circuit Court erred in refusing and failing to find that the only competent evidence contained in the record in this cause showed that the assessments made by the State Board of Equalization at its meeting held in 1901 upon the capital stock of said complainant and upon the capital stock of the lessor corporations of said Chicago Union Traction Company, in said decree mentioned, and upon the capital stock of the other corporations for the year 1900, named in the Writ of Mandamus issuing from the Circuit Court of Sangamon County, Illinois, were in fact made upon the same or a similar basis as that upon which the capital stock of all other corporations of the same class *were* assessed by the State Board of Equalization for the year 1900, and also that said assessments as to each of said corporations were made upon the same or a similar basis upon which all other taxable property in the State of

1737 Illinois was assessed for the year 1900.

Eighteenth. The said Circuit Court erred in finding that said assessment made in 1901 on the capital stock of complainant and its lessor corporations, named in said decree, was made under the coercion and influence of a Writ of Mandamus, issuing from the Circuit Court of Sangamon County, Illinois, without the exercise or application of the judgment of the State Board of Equalization or the members thereof, to the ascertainment of the value of said capital stock and without the State Board of Equalization, either in

fact or in form, taking into consideration, the basis upon which all other taxable property in the State of Illinois was assessed and taxed for the year 1900 and without in fact or in form equalizing the value or assessment of the capital stock of said complainant for the year 1900 with all or any of the assessments made upon other taxable property in the State of Illinois for the year 1900, with the result that said assessment made on the capital stock off the complainant and upon that of its aforesaid lessor corporations, made in the year 1901 for the year 1900, was made on a much higher basis than that upon which the other taxable property of the State of Illinois was assessed and taxed for the year 1900.

Nineteenth. The said Circuit Court erred in refusing and failing to find that the assessment made in the year 1901 on the capital stock of the complainant and its lessor corporations, named in said decree, was made without any coercion and in the exercise of the independent judgment of the State Board of Equalization and the
1738 members thereof, for the purpose of ascertaining the fair value of the capital stock of said corporations and each of them, and that said assessment was obtained and resulted from the said State Board of Equalization equalizing the value and assessment of the capital stock of said complainant and its lessor corporations for the year 1900 with all of the assessments made upon other taxable property in the State of Illinois, and that the assessment so arrived at was just and fair to the said complainant and its lessor corporations.

Twentieth. The said Circuit Court erred in finding that the making of the assessment for the year 1900 upon the capital stock of said complainant and upon that of its lessor corporations, named in said decree, and the extension of the taxes thereon, and the attempt to enforce the payment of the taxes so extended from complainant and from its aforesaid lessor corporations was and is a violation of the Fourteenth Amendment of the Constitution of the United States.

Twenty-first. The said Circuit Court erred in entering the order on the 28th day of June, 1902, to the effect that the complainant should pay, in addition to the taxes already paid, upon the first or original capital stock assessment for the year 1900, the further sum of $134,350.03, making a total capital stock tax to be paid by the complainant for the year 1900 of $187,252.03, which was found and decreed by the court to be all that complainant and its aforesaid lessor corporations should equitably be required to pay as a capital stock tax for the year 1900, for said Circuit Court should
1739 have found, if it had jurisdiction of this cause and of the parties hereto, that the complainant should be required to pay the aggregate amount of all taxes assessed against it in the year 1901 as and for the year 1900 upon its capital stock and upon the capital stock of its lessor corporations, aggregating $11,973,690.

Twenty-second. The said Circuit Court erred in ordering, adjudging and decreeing that the assessment of $11,973,690 on the capital stock of the complainant and on the capital stock of the lessor corporations of the complainant, named in said decree, made by the

State Board of Equalization in the year 1901 for the year 1900 and the taxes levied and extended thereon and now spread upon the books of the tax collection agency of the County of Cook and State of Illinois for collection, are, and each of them is, illegal, null and void, and that the defendants Samuel B. Raymond County Treasurer of Cook County Illinois, and *ex-officio* County Collector of Cook County Illinois, and *ex-officio* Town Collector of the Town of North Chicago and John J. Hanberg, his successor as County Treasurer of Cook County, Illinois, and *ex-officio* County Collector of said County, and *ex-officio* Town Collector of the Town of North Chicago, in said County, and his successor and successors in office as such County Treasurer and *ex-officio* County Collector and *ex-officio* Town Collector of the Town of North Chicago, and the defendant, the City of Chicago, and each of them and each and every of their respective agents, deputies, servants, attorneys and representatives, be and are perpetually enjoined and restrained from in anywise levying or collecting or in any manner attempting, directly or indirectly, to levy or collect or to enforce against the complainant or against any of its property, or against the aforesaid lessor corporations of complainant or against any of said property, or the property of either of them, the said tax or taxes or any part thereof.

1740 Twenty-third. The said Circuit Court erred in admitting and receiving in evidence *over* the objection and exception of defendants' counsel, the following testimony of Samuel M. Barnes, a member of the State Board of Equalization, of the State of Illinois for the years 1900 and 1901:

I heard the members of the State Board of Equalization discussed the remarks of the court on the application for an extension of time to make return to the writ of mandamus. My recollection of one remark that I heard was that it was a mere question of the Board's getting their pencils and getting to work and they ought to do it. I heard one of the Board say that the Court was very vituperative in this matter. I think it was either Mr. Schaefer or Mr. Hopkins of the Committee on the Board who was over there listening to the Court. The impression I got was very strongly fixed in my mind and it was that his attitude was intensely hostile to the Board and I was told by those who heard him that it was in the shape of a roast from start to finish as far as his manner was concerned. Of course, I cannot just quote the language that he used, but rather his manner I was told was vituperative, absolutely so. I was told this by members of the State Board of Equalization who were present and heard the remarks of the Judge. The reassessment as we determined it, was made with a view to satisfying the Court, the order of the court. We made no deduction, if I remember rightly, on account of that all of these companies but two had in 1900 been assessed upon their capital stock. We did not take into consideration the fact, if it was a fact that other property in

1741 the State had not been assessed at the maximum more than 70 per cent. of its value. The Court, in his discussion, gave an illustration of the manner in which the assessment should be made

and I think [illegible] an example of the Gas Company here; in any event one of t[illegible]anies he made an example of that and in that example he said just how the assessment should be made and as this was an order of the court, we followed that example that he gave in a general way, for all these assessments. Mr. Smith and Mr. Greenacre furnished these tables (Referring to complainant's Exhibit A, 10/23/03) said document being a compilation of the value of the capital stock of said Companies, prepared by Miss Goggin and Miss Haley, as members of the Teachers' Federation. Our desire in making this reassessment was in order to satisfy the Circuit Court of Sangamon County, because it was not my judgment that it was a proper assessment. The general idea seemed to be with the Committee on capital stock that the action of the committee was dictated by the Court. It was discussed between the committee on capital stock at about the time the reassessment was reported to the Board and the first object to be attained was to satisfy the Court. The assessments that were made subsequent to this assessment of 1900 were based on what we believed to be the law and in a general way on the judgment of the members, that is on the real values. The assessment for 1901 we regarded as representing our real judgment and the other we did to satisfy the Court. The restraining order issued by the Court was dissolved on the 22nd of November and I think it was a very short time after that on that day that we made our return to the writ.

1742 Twenty-fourth. The said Circuit Court erred in admitting and receiving in evidence, over the objection and exception of Defendants' counsel, the following testimony of Frank P. Martin, a member of the State Board of Equalization of the State of Illinois for the years 1900 and 1901:—

I remember making the reassessment on or about the 22nd day of November, when a writ of mandamus issued from the Circuit Court of Sangamon County, early in November, and that an application was made to the Circuit Court of Sangamon County for an extension of time within which to make the reassessment, and it was denied. I have read in the examination of Dr. Barnes what purport to be the remarks of Judge Thompson on that occasion. Shortly after those remarks were made by the Judge, they were repeated to me, and I was familiar with them. A statement was also made, purporting to have come from Judge Thompson that we had better get our candles and lamps and begin to get busy. We felt, when we made the assessment, that we were bound absolutely by the mandate of the court and the deliberations of the Court. I felt at the time that the values ought to be made on the information furnished by Mr. Greenacre from the School Teachers. The capital stock committee, of which I was a member, relied for information in fixing the values in the reassessment in relation to the complainant Companies, upon the information furnished by the teachers, being Complainant's Exhibit A. We made this assessment because I thought I wanted to satisfy the Court and what the court wanted was to satisfy Mr. Greenacre and the teachers. I was not taking my

own judgment in the matter at all. I did not take into con-
1743 sideration what other property throughout the State was valued at. I did not take into consideration what the capital stocks of these Companies had been assessed at for the year 1900. As far as I remember no deduction was made in fixing the assessed value of the capital stock of these companies on the reassessment on account of property throughout the state on the average, personal and real, not having been returned at full value for assessment at its full value. In the year 1900 and other previous years the State Board of Equalization did not, I think, treat the bonded indebtedness of corporations as assets, and that was so in respect to all corporations throughout the State.

1744 Twenty-fifth. The said Circuit Court erred, in admitting and receiving in evidence, over the objection and exception of Defendants' counsel the following testimony of John S. Cruttenden, a member of the Board of Equalization of the State of Illinois for the years 1900 and 1901:

"I remember the mandamus suit brought on the relation of Catherine Goggin and R. S. Steele against the State Board of Equalization. The writ of Mandamus was issued from the Circuit Court in Sangamon County, on or about the second of November, 1901, and I remember that an application was made on or about the 9th or 10th of November, to the Circuit Court of said county, for an extension of time within which to comply with the order as expressed in the writ, and I heard read what purported to be the remarks of Judge Thompson made on that application. The information upon which we based the figures that made for the re-assessment of 1900, was principally based upon the documents laid before us by the Teachers, known as Exhibit B. Our idea in making this assessment, was to comply with the request of the Court. The assessment, as finally recorded by us, upon these companies named as complainants in these cases, did not represent what we considered to be the value of their capital stock for the purposes of assessment; not according to the information that we gained afterwards. We
1745 supposed from this document, that these teachers had pretty reliable information on the values, and we took those figures almost all the way through. We concluded to take the example of the Peoples Gas Light and Coke Company cited by the Court for all the cases, thinking that we would satisfy the Court. It was the feeling of the Board that if we did not comply with the idea of the Court, whether right or wrong, we would all go to jail. I know I had people calling at my office in Springfield and Chicago, at my offices, and informing me that it would be an unpleasant thing to go to jail about this matter. In making this report which was adopted by the Board, we did not make any deduction on account of the assessment against the capital stock that had been made against these Companies. We did not make any deduction, because of the fact that other property in the State had not been assessed, to its full value. We proceeded upon the theory that it was absolutely void; that they were not entitled to any credit, and we would not take any chances of punishment for contempt by giving them credit.

You told us (Referring to counsel for Union Traction Company) that the Union Traction Company controlled the stock of the Underlying Companies; but we did not give any credit to the re-assessment. We assessed the whole stock of the other Company, too,
1746 upon the advice of Mr. Greenacre. In the case of the re-assessment of the Chicago Edison Company for 1900, we made no reduction on account of the Capital stock invested in patent rights. Prior to the year 1900, they equalized and endeavored to make the assessment upon the same basis as to values as property throughout the state was assessed.

Twenty-sixth. The Circuit Court erred in admitting and receiving in evidence over the objection and exception of defendants' counsel the testimony of Louis D. Hirshmeier, a member of the State Board of Equalization of the State of Illinois, for the year 1901:

"I remember that about the 2nd of November, 1901, a writ of mandamus issued against the members of the State Board of Equalization, returnable November 22nd, I believe, and that an application was made by the members of the State Board for an extension of time, within which to comply with the order of the Court as expressed in its writ. The next morning I heard what purported to be extracts from the remarks of Judge Thompson, in rendering his decision on the application for an extension. The remarks were freely discussed at the hotel by members of the Board, and I was informed that he was very much displeased by the application for an extension even being asked; and finally gave them the ultimatum of making an assessment, or being punished for con-
1747 tempt of Court. I heard him say that all that was necessary was a lead pencil and a little time; that all it required was the sharpening of a lead pencil and getting to work. The printed form furnished by Miss Haley and Miss Goggin were principally relied upon in making up the figures. Before our report was made I talked with Mr. Smith. Mr. Greenacre stated that the report was all right. I felt that anything Mr. Greenacre would recommend the Court would perhaps consider to some extent as right. I heard him say that whatever the views of any member of the Committee as to values to be taken, the opinion laid down there was what it would be, or something to that effect. In making up the report, I did not take into consideration the fact that there had been assessments made on all of the complainant companies, except two. In making up the report as to the values of these properties, I did not make any deduction whatever, in order to equalize the values of these properties with the values of other property in the State. We made an application for an extension of time to make these returns, in order to have more time to consider it, in arriving at our conclusion; but when that was denied, we had to make our report on such information as we had. In making these figures, to a very large extent, we acted upon the wishes of the Teachers' attorney and the Court's instructions.

1748 In the matter of the Chicago Edison Company's assessment for the year 1900, the capital stock was $6,000,000. That was assessed at 125, and a credit of $725,000 given for United

States Patents, leaving $6,775,000. Taking the debt at par, $5,508,000 making a total value of $12,283,000 on a basis of 70 per cent.; making $8,598,100; tangible property, $4,909,165, leaving $3,688,935, full value of the capital stock; one fifth value $737,787.

1749 Twenty-seventh. The said Circuit Court erred in admitting and receiving in evidence over the objection and exception of Defendants' counsel, the testimony of William M. Flook, as follows:

I made certain mathematical calculations and deductions, which are set forth in "Flook Exhibit A, 11 25 03, H. W. B." That Exhibit was compiled, in a general way, from the collection and compilation of statistics and figures from the records of the State Board of Equalization, from the time it first commenced to make reports, in 1873, down to 1900, and from the report of the Railroad and Warehouse Commission of the State of Illinois, for 1900, and from the report of the Railroad and Warehouse Commission of the State of Illinois, for 1900, and from Brown's Directory of Gas Companies for the year 1900. I have reduced the result of that work to the form of a report or statement. This statement has been made from the sources I have now described (Referring to said Flook Exhibit A).

Twenty-eighth. The said Circuit Court erred in admitting and receiving in evidence, over the objection and exception of Defendants' counsel, the document known as "Flook Exhibit A, 11 25 03, H. W. B." as follows:

1750 "From the report of the Railroad and Warehouse Commission for the year 1900 (pp. lxxxvii-lxxxvii) it appears that there were in that year 116 Railroad Companies operating within the State of Illinois, that the total mileage of main line and branches owned by said railroad companies was 17,685.37 miles; that of such total mileage so owned by said railroad companies, 10,817.10 miles of main line and branches were located in Illinois; that 1,548.71 miles of second, third and fourth additional main tracks were so owned and located in Illinois; that 4,248.86 miles of yards, tracks, sidings and spurs were so owned and located in Illinois; that 164.61 miles of industrial tracks were so owned and located in Illinois; and that 103.52 miles of new line building during the year 1900, exclusive of side tracks, were so owned and located in Illinois.

From said report it further appears (pp. lxxxviii-xciii) that the total amount outstanding of capital stock of said railroad companies was $1,401,508,589; that the amount of capital stock per mile of line was $28,867.; that the total amount outstanding of bonded debt of said railroad companies was $1,567,190,160.; and that the amount of funded debt per mile of line was $34,305.

Assuming that the value of the railroad property in this state was as great per mile of road as that outside of the state,

1751 and multiplying the mileage of the main lines and branches in Illinois (10,817 miles) by the amount of capital stock per mile of line ($28,867), it appears that the capital stock of said

116 railroad companies represented by the mileage of main lines and branches owned by said railroad companies in this state was $312,254,339.

Upon the same basis, multiplying the mileage of the main lines and branches in Illinois (10,817 miles) by the amount of funded debt per mile of line ($34,306.), it appears that the funded debt of said 116 railroad companies represented by the mileage of main lines and branches owned by said railroad companiese in this state was $371,077,185.

Upon the same basis the total amount of capital stock and funded debt represented by the mileage of main lines and branches owned by said railroad companies within this state was $683,331,524.

From the published report of the State Board of Equalization for the year 1900 it appears that the full value of all the railroad property in the State of Illinois, as found by said Board, including main tracks, second main tracks, side or turnout tracks, buildings on right of way and rolling stock, was $389,393,360.

1752 From the published report of the State Board of Equalization for the year 1873 (p. 35) it appears that the following resolution was referred to the Committee on Assessment of Capital stock of Corporations:

"Resolved that for the purpose of equalizing between land, town and city lots, personal property, railroads and corporations, sixty per cent. be the rate of general average in the State.

From the published report of said Board for the year 1874 (p. 79) it appears that the Committee on Capital Stock of Corporations made a report to the Board, accompanying which was a table (pp. 86, *et seq.*) showing "The assessment of capital stock of companies and associations incorporated under the laws of this State, other than railroad companies." Such companies and associations are listed in said table under the following headings: Name of company; Location; Capital stock paid up; Total indebtedness, except for current expenses; market or actual value of paid capital stock and debt, as determined by the state board; capital stock and debt, as equalized with the aggregate assessment of the state, by deducting forty per cent. of market or actual value; Total equalized value of tangible property assessed where located; Assessed and equalized value of capital stock, being excess of equalized value of capital stock and

1753 debt over equalized value of tangible property." The report of said Committee was adopted by the Board (p. 96).

From the published report of said Board for the year 1875 (pp. 8, 9) it appears that the following resolution was adopted:

"Resolved that in the opinion of this Board, the real and personal property of the State is assessed for the year 1875 at fifty per cent. of its cash value."

From the published report of said Board for the year 1876 (pp. 7, 9) it appears that the following resolution was adopted:

"Resolved that it is the opinion of this Board that the real and personal property of the State has been assessed at fifty per cent. of its cash value, for the year 1876."

From the published report of said Board for the year 1877 (pp. 17, 18) it appears that the following resolution was offered:

"Resolved that it is the opinion of this Board that the real and personal property of the State is assessed for the year 1877 at sixty per cent. of its cash value."

That an amendment changing the percentage from sixty per cent. to fifty per cent. was accepted by the mover of such resolution, and that the same was then adopted.

From the published report of said Board for the year 1878 (p. 10) it appears that the following resolution was offered:

1754 "Resolved that it is the opinion of this Board that the real and personal property of the State is assessed at sixty per cent. of its cash value for the year 1878."

That said resolution was amended by changing the percentage from sixty per cent. to fifty per cent., and as amended adopted.

From the published report of said Board for the year 1879 (pp. 10, 11) it appears that the following resolution was offered:

"Resolved that it is the opinion of this Board that the real and personal property of the State is assessed at sixty-five per cent. of its cash value for the year 1879."

That said resolution was amended by changing the percentage from sixty-five per cent to fifty per cent., and as amended adopted.

From the published report of said Board for the year 1880 (p. 6) it appears that the following resolution was adopted:

"Resolved that in the opinion of this Board the real and personal property of the state is assessed at fifty per cent. of its cash value, for the year 1880."

From the published report of said Board for the year 1881 (p. 9) it appears that the following resolution was adopted:

1755 "Resolved that in the opinion of this Board the real and personal property of the State is assessed at fifty per cent. of its cash value, for the year 1881."

From the published report of said Board for the year 1882 (p. 6) it appears that the following resolution was adopted:

"Resolved that in the opinion of this Board the real and personal property of the State is assessed at fifty per cent. of its cash value, for the year 1882."

From the published report of said Board for the year 1883 (p. 5) it appears that the following resolution was adopted:

"Resolved that in the opinion of this Board the real and personal property of the State is assessed at fifty per cent. of its cash value for the year 1883."

From the published report of said Board for the year 1890 (p. 5) it appears that the following resolution was adopted:

"Resolved that in the opinion of this Board the real and personal property of this state as returned by the local assessors for the year 1890, is assessed at twenty-five per cent. of its fair cash value."

From the published report of said Board for the year 1891 (p. 9) it appears that the following resolution was adopted:

1756 "Resolved that in the opinion of this Board the real and personal property of this State as returned by the Local Assess-

ors for the year 1891, is assessed at an average rate not exceeding twenty five per cent. of its fair cash value."

From the published report of said Board for the year 1893 (p. 10) it appears that the following resolution was adopted:

"Resolved that in the opinion of this Board, the real and personal property of this State, as returned by the Local Assessors for the year 1893, is assessed at an average rate not exceeding twenty-five per cent. of its fair cash value."

As to each of the years from 1873 to 1900, inclusive except the years expressly above referred to, no resolution similar to those above quoted was adopted; but the reports of said Board for each year show that the column containing the assessment placed by said Board upon the capital stock of corporations, other than railroad companies, is entitled in the following language:

"Net assessment of capital stock, being excess of equalized value over the equalized value of tangible property."

1757

Statement showing the capital stock and outstanding bonded indebtedness (as shown by Brown's Directory of American Gas Companies for 1900) of gas companies in Illinois, other than the Peoples Gas Light and Coke Company, together with the equalized value of the tangible property, and the "full value" of the capital stock and franchises of such companies as fixed by the state board of equalization for purposes of taxation in the year 1900.

	Capital stock.	Bonds.	Equalized value of tangible property.	Full value of capital stock and franchises as fixed by board.
Alton Ry. Gas & Electric Co.	$500,000	$150,000	$39,276	$201,380
Aurora Gas & Light Co.	300,000	230,000	.....	25,000
Belleville Gas Light & Coke Co.	50,000	17,000		
Union Gas & Electric Co. (Bloomington)	400,000	7,793	...	163,965
People's Gas & Electric Light Co. (Canton)	50,000			
Centralia Light & Power Co.	47,000	.....	5,100	30,500
Urbana & Champaign Gas & Electric Co. (Champaign)	500,000	435	25,045	250,000
Clinton Gas Co. (New Company)	50,000			
Danville St. Ry. & Light Co.	700,000	525,000	85,000	425,000
Decatur Gas & Electric Co.	400,000	372,000	35,481	250,000
Dixon Power & Lighting Co.	100,000	38,500	.....	12,500
Du Quoin Light, Heat & Power Co.	50,000	40,000	8,021	45,105
Elgin American Gas Co.	100,000	305,000	.....	20,000
Northwestern Gas Light & Fuel Co. (Evanston)	2,000,000	.....	..	25,000
Freeport Light & Fuel Co.	100,000	36,000	5,563	57,815
Galena Gas Light Co.	63,000			
Galesburg Gas & Electric Light Co.	350,000	350,000	21,199	155,995
Galva Gas Light & Coke Co.	30,000			
1758 Jacksonville Gas Light & Coke Co.	200,000	33,500	19,307	101,535
Joliet Gas Light Co.	300,000	285,000	27,734	188,720
Citizens' Gas Co. (Kankakee)	150,000			
Kewanee Light & Power Co.	100,000	80,000	6,315	56,575
La Grange Gas Co. (New Company)	100,000			
Peru-La Salle Gas Light & Power Co. (La Salle)	120,000	100,000		
Lincoln Gas Co.	100,000	85,000	1,800	90,000

Statement showing the capital stock, etc.—Continued.

	Capital stock.	Bonds.	Equalized value of tangible property.	Full value of capital stock and franchises as fixed by board.
Litchfield Light, Heat & Power Co....	$50,000	$35,000	$263	$6,315
Macomb Electric Light & Gas Co.....	50,000			
Mattoon Gas Light & Coke Co	50,000	50,000	... .	12,500
Mendota Light & Heat Co	25,000	8,800	.....	5,000
People's Power Co (Moline)	300,000	200,000	17,923	115,000
Monmouth Gas Co.....	30,000	20,000	8,500	42,500
Morris Gas Co..... ..	40,000	20,000	1,496	12,480
Murphysboro Water Works, Electric & Gas Light Co	80,000	80,000	10,817	56,586
Ottawa Gas Light & Coke Co..	100,000	.....	3,822	24,110
Paris Gas Light & Coke Co..	50,000	.....	.....	10,000
Pekin Light, Heat & Power Co.....	100,000	100,000	7,734	63,670
Peoples Gas & Electric Co. (Peoria)...	500,000	.....	37,422	212,110
Peoria Gas Light & Coke Co.....	300,000	... ..	47,200	236,000
Quincy Gas & Electric Co.....	600,000	600,000	31,255	300,000
Rockford Gas Light & Coke Co.....	300,000	485,000	16,754	125,000
Springfield Gas Light Co..... ...	75,000	.....	27,264	136,320
Sterling Gas & Electric Light Co.....	40,000	36,000	5,560	27,800
Streator Gas & Light Co..	100,000	60,000	.....	15,000
Citizens' Gas Light & Fuel Co. (Taylorville).....	12,280	.....	553	10,000
North Shore Gas Co. (Waukegan).....	1,000,000			
Ogden Gas Co. (Chicago).....	5,000,000	.....	37,826	239,130
	$15,922,280	$4,782,235	$572,982	$3,948,610

1759 *Statement Showing Aggregate Assessments Made by Local Assessors in the Years* 1873 *to* 1900.

1873	$1,210,108,863
1874	1,105,658,176
1875	1,025,428,289
1876	958,405,803
1877	892,380,972
1878	818,987,409
1879	744,742,846
1880	739,462,515
1881	746,034,852
1882	750,635,758
1883	756,422,291
1884	746,547,501
1885	733,533,951
1886	726,178,132
1887	726,078,638
1888	709,304,506
1889	711,515,026
1890	727,549,707
1891	737,504,791
1892	745,754,172
1893	760,837,855

1894	737,989,016
1895	743,840,153
1896	731,215,488
1897	713,443,706
1898	693,443,706
1899	895,869,090
1900	779,513,078

1760 *Statement Showing Total Value of Personal Property as Assessed by Local Assessors for the Years* 1873 *to* 1900.

1873	$301,566,517
1874	267,469,471
1875	239,102,189
1876	212,893,542
1877	187,648,455
1878	169,815,099
1879	151,629,963
1880	165,091,710
1881	168,674,777
1882	167,304,024
1883	167,276,876
1884	159,767,095
1885	153,333,048
1886	147,998,610
1887	148,246,088
1888	140,990,725
1889	142,726,240
1890	141,981,057
1891	143,529,274
1892	143,799,494
1893	145,136,023
1894	127,973,857
1895	129,254,545
1896	120,428,916
1897	117,098,946
1898	114,215,007
1899	183,526,987
1900	166,542,866

1761 *Statement Showing the Aggregate Value of Lands as Assessed by the Local Assessors During the Years* 1873 *to* 1900.

1873	$643,196,808
1874	586,022,941
1875	552,012,889
1876	522,394,667
1877	491,723,358
1878	447,942,329
1879	412,208,278
1880	398,338,737

1881	399,267,959
1882	395,757,100
1883	394,016,653
1884	389,109,470
1885	380,488,162
1886	371,940,467
1887	365,476,933
1888	352,995,885
1889	348,604,543
1890	345,750,094
1891	343,624,261
1892	339,043,920
1893	338,064,144
1894	334,030,873
1895	332,409,485
1896	329,474,124
1897	323,837,358
1898	319,047,998
1899	315,963,816
1900	309,394,797

1762 *Statement Showing the Aggregate Value of Town and City Lots as Assessed by the Local Assessors During the Years* 1873 *to* 1900.

1873	$241,820,362
1874	245,854,685
1875	228,814,552
1876	218,055,488
1877	208,540,957
1878	197,031,558
1879	177,567,698
1880	173,260,959
1881	176,023,751
1882	185,592,977
1883	193,063,755
1884	195,642,562
1885	197,741,226
1886	203,835,559
1887	210,112,460
1888	213,400,542
1889	218,332,464
1890	237,654,199
1891	249,141,918
1892	260,408,429
1893	275,029,263
1894	273,693,566
1895	280,074,344
1896	279,307,191
1897	270,633,137
1898	258,323,686
1899	393,262,409
1900	300,913,328

1763 *Statement Showing Aggregate Assessment of Town and City Lots in Cook County as Assessed by the Local Assessors During the Years* 1873 *to* 1900.

1873	$90,447,759
1874	100,689,670
1875	97,795,613
1876	96,789,412
1877	94,637,338
1878	95,374,127
1879	85,791,192
1880	85,635,165
1881	87,192,987
1882	95,448,675
1883	101,456,866
1884	103,408,025
1885	107,295,606
1886	112,994,128
1887	119,437,368
1888	123,132,781
1889	126,795,669
1890	143,347,119
1891	150,690,710
1892	157,446,400
1893	164,389,327
1894	165,045,268
1895	169,252,421
1896	167,671,344
1897	158,767,689
1898	146,672,035
1899	285,717,467
1900	192,550,863

Comparative Statement Showing State Aggregate Average of the Value of Personal Property as Assessed by Local Assessors for the Years 1873 to 1900.

	Horses.	Cattle.	Mules and asses.	Sheep.	Hogs.	Steam engines, including boilers.	Fire or burglar proof safes	Billiard tables, etc.	Carriages and wagons.	Watches and clocks.	Sewing and knitting machines.	Pianos.	Melodeons and organs.
1873....	$52.41	$17.74	$59.09	$1.96	$3.17	$679.05	$105.80	$92.58	$35.86	$6.89	$32.50	$142.95	$60.39
1874....	45.92	15.63	50.39	1.62	2.60	582.67	84.63	75.21	31.22	5.61	25.31	117.63	53.02
1875....	40.95	14.27	45.75	1.51	2.90	504.27	76.83	65.56	27.72	5.66	21.56	102.57	47.22
1876....	36.92	13.37	40.70	1.44	3.35	408.85	65.85	55.86	24.92	4.55	18.32	87.68	41.58
1877....	33.90	12.38	36.92	1.30	2.56	364.89	58 94	43.14	21.94	4.01	14.01	76.43	35.99
1878....	29.63	11.19	32.39	1.15	1.50	321.94	53.30	39.14	18.88	3.62	10.44	67.42	28.95
1879....	26.63	10.15	28.82	1.10	1.36	194.15	45.19	34.23	17.13	3.18	8.42	59.23	24.66
1880....	26.56	9.95	29.77	1.29	1.53	247.99	40.71	30.44	16 56	3.11	7.71	54.68	22.36
1881....	27.66	10.04	31.50	1.29	1.86	236.64	40.23	29.98	17.01	3.00	7.29	52.42	20.65
1882....	28.22	10.18	31.17	1.28	2.03	247.88	38.71	31.24	15.34	2.94	6.79	51.12	19.42
1883....	28.89	10.45	32.21	1.25	2.23	240.05	32.56	31.10	14.42	2.83	6.39	49.21	18.10
1884....	28.41	10.13	31.20	1.16	1.85	221.29	33.75	31.02	13.62	2.78	5.97	46.11	16.92
1885....	27.16	9.61	29.26	.99	1.55	205.57	31.92	28.83	12.52	2.62	5.58	45.88	14.89
1886....	26.13	8.84	27.39	.95	1.32	184.78	29.29	27.55	11.72	2.53	5.25	42.39	14.09
1887....	25.80	8.31	26.79	.96	1.48	176.79	28.39	24.92	11.38	2.47	5.12	40.18	13.41
1888....	24.88	7.11	25.03	.96	1.42	167.35	26.50	24.27	10.71	2.39	4.74	38.45	12.46
1889....	24.21	6.59	24.46	.98	1.52	154.37	26.10	23.39	10.10	2.27	4.53	37.00	11.74
1890....	22.96	6.43	23.44	1.02	1.39	151.97	25.73	22.89	9.67	2.19	4.46	37.16	11.25
1891....	21.96	6.30	22.94	1.07	1.25	149.14	25.82	21.66	9.35	2.16	4.34	34.29	10.51
1892....	20.74	6.07	21.64	1.06	1.26	142.50	25.00	22.09	9.10	2.09	4.23	33.65	10.11
1893....	19.41	6.34	20.69	1.04	1.69	138.51	23.06	21.09	9.15	2.05	4.12	32.63	9.75
1894....	14.87	6.26	16.63	.84	1.43	130.37	21.84	19.31	8.55	1.98	3 98	29.74	9.11
1895....	12,84	6.68	13.84	.85	1.42	125.87	21.22	18.38	8 09	1.92	3.94	29.08	8.63
1896....	11.33	6.49	12.15	.80	1.26	121.88	20.54	18.59	7.83	1.91	3.74	27.49	8.22
1897....	10.49	6.58	11.14	.82	1.29	117.99	20.67	16.91	7.29	1.78	3.59	26.58	7.90
1898....	10.64	6.63	11.69	.86	1.22	112.96	19.40	16.43	7.02	1.72	3.48	25.75	7.36
1899....	8.29	5.03	8.83	.72	.84	94.88	10.16	13.10	4.71	1.64	2.21	19 53	4.95
1900....	9.06	4.92	9.88	.76	1.07	85.99	9.41	7.92	4.45	1.52	1.99	18.09	4.39

1765 Thirty-ninth. Said Circuit Court erred in admitting and receiving in evidence, over the objection and exception of defendants' counsel the testimony of Edward J. E. Ward, as follows:

I have been familiar for over thirty years with the concern known as the Union Stock Yards and Transit Company; said Company is a very large market for the sale of all sorts of live stock, cattle, hogs, horses and so forth. It is the sole market of the kind in Cook County, for cattle, hogs, sheep and live stock generally. I have procured, under direction, the annual reports of the Union Stock Yards and Transit Company, and from those reports, and from other data I have prepared a statement showing the number of cattle, the hogs and horses received at the Union Stock Yards and Transit Company during the year 1899 to 1901 inclusive, the total value of each kind of animal and average value per head, compiled from those statistics. This paper which I now show you is that compilation.

(Witness here produced Ward Exhibit B, November 12, 1903.)

From this compilation it appears that during the year 1899, 2,514,446 head of cattle, of a total value of $123,207,854, or an average value of $49 per head, was received; in the same way,

1766 for the year 1900, there were 2,729,046 head of cattle, of a total value of $136,452,300, of the average value per head of $50; and in the year 1901, without specifying the name or number of cattle, the average price received was $48 per head. In 1899, the average price per head was $9.74.

For the year 1900, the average price per hog received was $11.84; for the year 1901, $13.00. With reference to horses, the average price received in 1899, was $112.50; in 1900, $116.00; in 1901, $120.00; All these figures are taken from the annual reports of the Union Stock Yards and Transit Company that have been referred to.

Thirtieth. The said Circuit Court erred in admitting and receiving in evidence, over the objection and exception of defendants' counsel, the document known as Ward Exhibit B, November 12, 1903, which was as follows:

WARD EXHIBIT B. NOV. 12, '03.

Statement showing the number of cattle, hogs and horses sold at the Union Stock Yards, Chicago, during the calendar years 1899 to 1901, inclusive, the total value of each kind of animals, and the average value per head. Compiled from the annual statistical reports of the Union Stock Yard- and Transit Company for the years indicated.

1767

Cattle.

Year.	Number of head.	Total value.	Average per head.
1899	2,514,446	123,207,854	$49
1900	2,729,046	136,452,300	50
1901	3,031,396	145,507,008	48

Hogs.

1899	8,177,870	79,734,233	9.74
1900	8,109,064	96,092,408	11.84
1901	8,290,494	107,776,422	13.00

Horses.

1899	111,611	12,556,237	112.50
1900	99,010	11,485,160	116.00
1901	109,353	13,122,360	120.00

Thirty-first. The said Circuit Court erred in admitting and receiving in evidence over the objection and exception of defendants' counsel, a report from the Illinois State Board of Agriculture for December, 1900, as follows:

"Live stock, Hogs. There is a slight increase in the number of hogs assessed this year over 1899, the number reported being
1768 2,829,960. In the Northern Division of the State there were 1,210,227; in the Central Division 1,138,979; and in the southern Division 480,754. At the equalized value of $1.07 per head, they were worth $3,028,057.00. The number of corn fed hogs marketed was 2,348,855, or 83 per cent. of the number assessed, and their average live weight was 225. The heaviest hogs marketed were in Northern Illinois, where their average weight was 243 pounds. In the Central Division the average weight was 218 pounds and in the Southern Division 198 pounds. The total live weight of the hogs marketed during the year was $527,833,094. The average price received of $4.35 per cwt. is the highest since 1894 and varied but little in different sections of the State. At this rate the total value of the hogs marketed would be $23,066,408, of which amount Northern Illinois received $10,609,820.00; Central Illinois $9,126,358.00; and Southern Illinois, $3,330,230.00."

"The following table shows assessed and marketed in 1899, as well as their weight and value for the last 45 years. For 1899, the assess-

ors' returns of the number of hogs *was* 2,796,483, of a value of $2,349,046.00. 83% is the estimated per cent. of the total crop that was marketed. The number of hogs that were marketed in that year was 2,321,060. The total gross weight per head was
1769 234 pounds; the total gross weight, 542,267,060 pounds. The value per cwt. gross, $3.60; and the total value of hogs marketed was $19,658,897.00.

"For the year 1900 the Assessors' returns were 2,829,960 hogs of the value of $3,028,057.00. 83% is the estimate- per cent. of the total number that were marketed. The total number that were actually marketed is 2,348,855. The average gross weight per head was 225 pounds. The total gross weight, 527,833,094; the value per cwt. gross, was $4.33, and the total value received, from hogs marketed $23,065,408.00.

"More cattle were reported by the Assessors this year than last, 2,009,598 being returned. Of this number 1,085,050 were in Northern Illinois, 658,683 in Central Illinois, and 265,885 in the Southern Division of the State. At the equalized value of $4.92 per cwt., (?) they were worth to the feeder $9,887,222.00. 23% of the number assessed, or 462,197 were marketed, their average live weight being 1125 pounds. In the Northern Division of the State the average weight of the cattle marketed was 1115 pounds. In Central Illinois 1205 pounds; and in Southern Illinois but 968 pounds. The total weight of cattle marketed was 520,065,373 pounds. The average value of the cattle sold during the year was $4.25; and the total value $22,089,527.00,—the best returns for this class
1770 of live stock since 1884. Over half of this amount $11,586,603.00 should be credited to Northern Illinois, $8,209,791.00 to Central Illinois and $2,203,073.00 to Southern Illinois."

Thirty-second. The said Circuit Court erred in admitting and receiving in evidence, over the objection and exception of defendants' counsel, the document known as Ward Exhibit C, November 12, 1903, as follows:

WARD EXHIBIT C. NOV. 12, '03.

Statement showing the number of head of horses, cattle and hogs in the State of Illinois, returned for taxation in 1900 by the Local Assessors, compared with the number of head of horses, Cattle & Hogs in the State of Illinois, on June 1st, 1900, according to United States Census Office returns.

Kind.	Number of head returned by local assessors in Illinois for 1900.	U. S. census for June 1st, 1900.	Difference.
Horses	1,209,446	1,350,219	140,773
Cattle	2,438,275	3,104,010	665,735
Hogs	2,690,367	4,915,468	3,225,101

1771 Thirty-third. The said Circuit Court erred in admitting and receiving in evidence, over the objection and exception of Defendants' counsel, the following evidence into the record between counsel only in the event that the same was competent and material to the issues.

"That the Union Stock Yards and Transit Company now owns and conducts in the City of Chicago a live stock yard and market for the reception, handling, sale and disposition of all kinds of live stock, and has continuously conducted and operated the same since 1865;

That at said market there is received annually a large number of horses, cattle, hogs, sheep and other live stock which are sent to said market to be sold and disposed of to purchasers there gathered from all parts of the United States and Europe;

That such live stock is received from all parts of the United States but chiefly from the territory lying west, North and South of the State of Ohio;

That in the course of business, as conducted at said market, the prices of all live stock sold in said market are recorded in books kept for that purpose by the Union Stock Yards and Transit Company, and that said Union Stock Yards and Transit Company annually and at the end of each calendar year or shortly thereafter compiles and tabulates the result of the trade in said live stock during said

1772 year at said market, and the prices realized for the said live stock, which tabulation of values is thereupon by the Union Stock Yards and Transit Company printed and published generally in the form of the annual report heretofore produced and offered in evidence by the Complainant at the hearing before the Master on November 12, 1903.

That from the annual report of said Union Stock Yards and Transit Company — appears that the total receipts of live stock at said market since its establishment in the year 1865, up to and including the year 1901, were

56,125,861 head of cattle,
2,518,278 Calves,
202,197,439 Hogs,
52,142,667 sheep,
1,644,620 Horses.

That the total sum realized for the live stock so received and sold at the said market during that period was the sum of $5,792,705,549."

Thirty-fourth. That said Circuit Court erred in admitting and receiving in evidence, over the objection and exception of defendants' counsel the testimony of Williston Fish, as follows:

I am a lawyer, in the employ of the Chicago Union Traction Company. I prepared the schedules of property for the company

1773 for the years 1900, 1902 and 1903. I have made an investigation of the sales of stocks and bonds of the Chicago Union Traction Company and the underlying companies on the Stock Exchange during the entire existence of the Chicago Union Traction Company, and I have made a memorandum of the amount of such sales, which is contained in this report (Referring to Exhibit 1 to

the deposition of Williston Fish). I used the yearly reports made by the newspaper called the Economist, published in Chicago, and giving the sales and prices for each year from 1899 to 1903, and I also obtained the reports from the daily papers, published in Chicago during that time. I have an intimate knowledge of the affairs of the Company and the market quotations for the last four years of the stocks and bonds of the Chicago Union Traction Company, and its underlying companies, on the stock Exchange, do not give a fair indication of the real value of the property of said Company. I have spent about a third of my time since 1899, in making inventories, and examining the tangible personal property of said Chicago Union Traction Company and the underlying companies. On April 1st, 1900, all of the property of the Chicago Union Traction Company, including realty and personalty and franchises was worth less than $27,000,000, and all the property of the underlying companies at the same time was worth $12,242,972.12.

1774 Thirty-fifth. The said Circuit Court erred in admitting and receiving in evidence, over the objection and exception of defendants' counsel, the document known as Exhibit 1 of the testimony of W. Fish, 11 25 03 as follows:

The following statement shows the high and low values on the Chicago Stock Exchange and the amounts dealt in of the stocks and bonds named, in each of the years 1899, 1900, 1901, 1902 and in 1903 up to November.

Chicago Union Traction Company.

Common Outstanding, 20,000.

	Date low.	Low.	High.	Date high.	Sales.
1899	Dec. 22	23	39	Aug. 25	40,066
1900	Dec. 15	8½	29½	Jan. 5	47,577
1901	May 9	9½	20⅞	May 28	126,544
1902	Jan. 16	10	22⅝	Apr. 29	134,032
1903	June 19	3½	17	Jan. 13	23,245

1775 Chicago Union Traction Company.

Preferred Outstanding, 12,000,000.

	Date low.	Low.	High.	Date high.	Sales.
1899	Dec. 22	72	87¾	Aug. 31	28,158
1900	Dec. 15	40	78¼	Jan. 2	45,211
1901	Dec. 19	47	61½	June 7	41,222
1902	Dec. 23	45	59½	Apr. 29	19,420
1903	Apr. 22	26	51	Jan. 13	8,365

1776 West Chicago Street Railway Company.

Issued	13,189,000
Owned by C. U. T. Co.	3,216,000
Outstanding	9,973,000

Year.	Date low.	Low.	High.	Date high.	Sales.
1899	Jan. 3	91⅝	124¼	Sept. 1	127,989
1900	Dec. 22	96½	113	Feb. 5	31,405
1901	Nov. 21	90	108	Mar. 15	30,108
1902	Dec. 15	83	103¼	May 2	14,680
1903	Oct. 10	50	93	Jan. 14	8,717

1777 North Chicago Street Railroad Company.

Stock issued	7,920,000
Owned by C. U. T. Co.	2,022,600
Outstanding	5,897,400

Year.	Date low.	Low.	High.	Date high.	Sales.
1899	Jan. 24	217	250¼	May 1	20,256
1900	Dec. 26	190	228	Feb. 7	3,729
1901	Dec. 2	180	207	Mar. 1	4,694
1902	Dec. 22	158	199¾	Apr. 29	4,917
1903	Oct. 5	95	175	Jan. 14	4,122

1778 Chicago Consolidated Traction Company.

4½'s, 8—.

Year.	Date low.	Low.	High.	Date high.	Sales.
1899					
1900					
1901					
1902	Feb. 11	67	80	Mar. 27	219,000
1903	Oct. 20	60	70½	Apr. 2	136,000

1779 North Chicago Street Railroad Company.

First Mortgage, 5's, 1906 { Total, 1906 & 1909, $3,171,000.

The 1906's are:

Year.	Date low.	Low.	High.	Date high.	Sales.
1899	July 21	105¼	108½	Oct. 27	23,500
1900	Dec. 31	104⅜	105⅛	Dec. 19	16,000
1901	Oct. 4	104	104½	July 3	10,500
1902	Feb. 28	103	103	May 5	31,500
1903	June 4	97	100	Mar. 9	19,000

The 1909's are:

1899					
1900	Nov. 19	105⅞	106¾	May 16	24,000
1901	Oct. 9	106	106½	Aug. 6	19,000
1902	Apr. 2	104	104½	Feb. 24	11,000
1903	June 5	97	99½	Mar. 26	9,000

1780 North Chicago City Railway Company.

4½'s, 2,500,000.

Year.	Date low.	Low.	High.	Date high.	Sales.
1899	Nov. 21	107	109¾	July 14	23,000
1900	Feb. 9	107⅛	108¾	June 5	54,000
1901	Dec. 17	105	108⅛	May 21	53,000
1902	Aug. 1	105	107	Apr. 10	14,000
1903	May 7	98	103	Jan. 29	12,000

1781 West Chicago Street Railroad Company, Consolidated.

5's, $6,114,000.

Year.	Date low.	Low.	High.	Date high.	Sales.
1899	Jan. 3	94¾	107½	July 12	2,924,000
1900	Dec. 17	100	104½	Jan. 5	900,000
1901	Dec. 26	98⅞	104½	Apr. 13	749,500
1902	Dec. 11	94	101½	Apr. 4	340,000
1903	Sept. 12	80	97¼	Jan. 14	135,000

1782 West Chicago Street Railroad Company.

Debenture 6's, $497,000.

Year.	Date low.	Low.	High.	Date high.	Sales.
1899	Mar. 6	100	102	June 14	158,000
1900	July 19	100	100½	Oct. 30	89,000
1901	Nov. 25	100	100¾	Sept. 4	37,000
1902	Sept. 23	99½	100¼	May 5	9,000
1903	May 31	87	106	Jan. 13	19,000

1783 West Chicago Street Railroad Company.

1st Mortgage, 5's.

Year.	Date low.	Low.	High.	Date high.	Sales.
1899	Apr. 11	109	112	July 13	104,000
1900	Jan. 20	108	111½	June 21	111,000
1901	Dec. 14	109½	111	May 13	123,000
1902	Dec. 29	104¾	109½	May 1	141,000
1903	July 23	96	104	Feb. 25	78,000

1784 Chicago West Division Railway Company.

4,016,000 4½'s.

Year.	Date low.	Low.	High.	Date high.	Sales.
1899					
1900	Apr. 19	107¾	109	Apr. 4	7,000
1901	Oct. 22	108½	110	Mar. 7	6,000
1902	Mar. 24	109½	109½	Nov. 3	5,000
1903	Oct. 1	93	105	Jan. 20	35,000

1785 Thirty-sixth. The said Circuit Court erred in admitting and receiving in evidence over the objection and exception of defendants' counsel the testimony of William G. Beale as follows:

"I appeared before the State Board of Equalization, and gave to said Board detailed information in reference to the value of the property of the Chicago Edison Company, and handed said Board a pamphlet entitled "Report of Chicago Edison Company for the fiscal year ending March 31, 1900," which was offered and received in evidence as Complainant's Exhibit A 10/22/02, H. W. R.; that I compiled the information contained in said report in reference to the value of the capital stock, and the amount of bonded indebtedness. A part of the information I got from direct investigation, and part from public reports, and a part from employing an agent to go out and find the facts.

Thirty-seventh. The said Circuit Court erred in admitting and receiving in evidence over the objection and exception of Defendants' counsel, the document marked Complainant's Exhibit A, which document is attached to the bill of complaint in the case of the Chicago Edison Company *vs.* Samuel B. Raymond *et al*, in the Circuit Court of the United States for the Northern District of
1786 Illinois, No. 26,163.

Thirty-eighth. The said Circuit Court erred in admitting and receiving in evidence over the objection and exception of defendants' counsel, the document entitled Complainant's Exhibit B, which document is attached to the bill of complaint in the case of the Chicago Edison Company *vs.* Samuel B. Raymond *et al*, now pending in the Circuit Court of the United States for the Northern District of Illinois, No. 26,163.

Thirty-ninth. The said Circuit Court erred in admitting and receiving in evidence, over the objection and exception of defendants' counsel, the testimony of Arthur D. Wheeler, as follows:

"I appeared before the State Board of Equalization while it had under consideration the proper capital stock assessment for the Chicago Telephone Company for the year 1900, and answered questions and gave information to said Board, concerning the capital stock valuations of said Company. One of the members of the Capital Stock committee of the Board stated that the Committee could not or would not act until they had received word as to the
1787 wishes or ideas of the Court. At about this stage one of the attorneys for the relators in the Mandamus proceeding came into Court with a paper in his hand, and I was ushered out, and fifteen or thirty minutes after that the Committee reported the assessment against the Chicago Telephone Company, which was afterwards accepted by the State Board.

Fortieth. The said Circuit Court erred in admitting and receiving in evidence over the objection and exception of defendants' counsel, the following evidence of Fred E. Smith:

"The ordinary operation of a street railroad results in a gradual depreciation of its plant. A charge ought to be made every month on account of such depreciation. Such depreciation in the case of the Chicago Union Traction Company amounts to a little over seven and one half per cent. per annum of the entire value of the property. No such depreciation had been charged against the Chicago Union Traction Company on its books. I have prepared a statement of the income and expenses of the Chicago Union Traction Company for the fiscal year ending June 30, 1900. It is that which I hand you. (Referring to Complainant's Exhibit 1, set forth in the Master's report, filed June 9, 1902.) I have made a compilation upon the lines laid down by Judges Grosscup and Humphrey in their
1788 opinion, as to what the taxes would amount to if they were fixed at the rate of 8.035. I capitalized the true net income of 2,057,352.61 upon a six per cent. basis, which resulted in a capitalization of $34,289,210.17. I equalized these on a seven per cent. basis, which produces a capitalization of $24,002,447.12; took one-fifth of this for the assessed value, which was $4,800,489.42. As

computed on the basis of that rate, 8.035 it produces $385,719.32. I then deducted the taxes already paid of $239,097.22, leaving the amount to be paid $146,622.10.

Forty-first The said Circuit Court erred in admitting and receiving in evidence, over the objection and exception of Defendants' counsel, exhibit number 1, offered and received in evidence in the case of the Chicago Union Traction Company *vs.* Samuel B. Raymond *et al*, No. 26,609, contained in the Master's report, filed in said cause, June 9, in the following words:

Chicago Union Traction Company.

Income Account Year Ending June 30th, 1900.

Income from all sources:

Passenger Receipts	$7,468,797.98	
Chartered cars	2,122.50	
Mail	6,477.58	
Advertising	33,576.95	
1789 Rent of Land and Buildings	35,622.14	
Rent of Tracks and Terminals	10,000.00	
Interest on Deposits	17,690.11	
Miscellaneous	3,336.03	
Total Income from all sources		$7,557,623.29

Expenses:

Maintenance—Way & Structures	193,666.90	
Maintenance—Equipment	381,082.87	
Transportation	2,836,167.01	
General Expenses	1,119,962.07	
Interest on Loans	41,776.80	
Depreciation, being 6% of $9,364,928.57, full value of personal property, said full value being obtained upon the assumption that the Assessors' full valuation of said personal property for the year 1900, to-wit: $6,555,450, was only 70% of real value	561,895.71	
Total Expenses		$5,134,551.36
Net earnings applicable to payment of Bond interest, rentals and taxes		$2,443,071.93
Deducting taxes for 1900, already paid		239,097.22
Leaving net income		2,203,974.71

This amount will be further reduced by the amount of taxes to be paid under the decision rendered by Judges Grosscup and Humphreys."

1790 Forty-second. The said Circuit Court erred in admitting and receiving in evidence, over the objection and exception of Defendants' counsel, oral testimony for the purpose of explaining, varying and contradicting the official acts, records and proceedings of the State Board of Equalization for the years 1900 and 1901, wherein and whereby said Board made the assessment against the property of the complainant sought to be enjoined in this cause.

Forty-third. The said Circuit Court erred in refusing and failing to hold that parol evidence was incompetent, for the purpose of explaining, varying or contradicting the official acts, records and proceedings of the State Board of Equalization of the State of Illinois, in reference to the assessments on the capital stock of the complainant, made by the said board in the year 1901, for the year 1900.

Forty-fourth. The said Circuit Court erred, in failing and refusing to hold that inasmuch as complainant contributed to the expense of said Mandamus suit, instituted in the Circuit Court of Sangamon County, Illinois, against the State Board of Equalization of the State of Illinois, for the purpose of compelling said Board to assess

1791 the capital stock of the complainant and the other corporations therein named, for the year 1900, and inasmuch as the complainant participated in directing and controlling the conduct of said litigation, therefore complainant was concluded by the outcome of said suit, and the proceedings of said State Board of Equalization, and the assessment of the Capital stock of Complainant for the year 1900, made by the said State Board of Equalization of the State of Illinois, in obedience to said writ of Mandamus, and said Circuit Court erred in failing and refusing to hold, that all of the aforesaid proceedings are *res adjudicata*, and constitute an estoppel by judgment and verdict against the Complainant, conclusively establishing the validity and regularity of the said assessment complained of in the bill of complaint in this cause.

In all of which respects these defendants claim that the aforesaid judgment and decree of said Circuit Court are erroneous, illegal and invalid, and therefore these defendants pray that the said Judgment and decree may be reversed, set aside and held for nought.

HARRY A. LEWIS,
WILLIAM F. STRUCKMAN,
JAMES HAMILTON LEWIS, AND
DAVID K. TONE,
Solicitors for the Above-Named Defendants.

(Endorsed:) Filed Aug. 10, 1906, Marshall E. Sampsell, Clerk.

1792 And on to-wit: the tenth day of August, being one of the days of the regular July term of said Court, 1906, in the record of proceedings thereof in said entitled cause before the Hon. Peter S. Grosscup, Circuit Judge, appears the following entry, to-wit:

Order of August 10, 1906, Allowing Appeal.

26609.

CHICAGO UNION TRACTION COMPANY
vs.
SAMUEL B. RAYMOND, County Treasurer of Cook County, Illinois, and *ex-officio* County Collector, Cook County, Illinois; and JOHN J. HANBERG, His Successor as County Treasurer of Cook County, Illinois, and *ex-officio* County Collector of Cook County, Illinois, and *ex-officio* Town Collector of the Town of North Chicago, and THE CITY OF CHICAGO.

Upon motion of David K. Tone, Esq., solicitor for the defendants, and on filing petition for an order allowing an appeal, together with assignment of errors, It is ordered that an appeal be and is hereby allowed to the Supreme Court of the United States from the decree entered herein on the twenty-fifth day of July, 1906, and that the amount of the bond upon appeal be and hereby is fixed at the sum of two hundred dollars. Said bond to be approved by the Clerk of this Court.

1793 And on to-wit: the fifth day of Spetember, 1906, there was filed in the clerk's office of said Court in said entitled cause a certain Bond on Appeal in words and figures following to-wit:

1794 *Bond on Appeal.*

Know all men by these presents, That we, Samuel B. Raymond, County Treasurer of Cook County, Illinois, and *ex-officio* County Collector of Cook County, Illinois, and John J. Hanberg, his successor in office as County Treasurer of Cook County, Illinois, and *ex-officio* County Collector of Cook County, Illinois, and *ex-officio* Town Collector of the Town of North Chicago, and The City of Chicago, as principals and National Surety Company, as surety, are held and firmly bound unto Chicago Union Traction Company in the full and just sum of Two Hundred ($200.00) Dollars, to be paid to the said Chicago Union Traction Company its certain attorney, successors or assigns; to which payment, well and truly to be made, we bind ourselves, our heirs, executors and administrators, jointly and severally, by these presents. Sealed with our seals, and dated this 30th day of August, in the year of our Lord one Thousand nine hundred and six.

Whereas, lately at a session of the Circuit Court of the United States for the Northern District of Illinois, Eastern Division, on July 25th, A. D. 1906, in a suit depending in said Court, between Chicago Union Traction Company, complainant, and Samuel B. Raymond, County Treasurer of Cook County, Illinois, and *ex-officio* County Collector of Cook County, Illinois, and John J. Hanberg, his successor

in office as County Treasurer of Cook County, Illinois, and *ex-officio* County Collector of Cook County, Illinois, and *ex-officio* Town Collector of the Town of North Chicago, and The City of Chicago, defendants, a decree was rendered against the said defendants above named, restraining them from collecting certain taxes levied
1795 against the property of complainant, and the said defendants above named, having obtained an appeal to the Supreme Court of the United States and filed a copy thereof in the Clerk's office of the said Court to reverse the decree in the aforesaid suit,

Now, the condition of the above obligation is such, that if the said Samuel B. Raymond, County Treasurer of Cook County, Illinois, and *ex-officio* County Collector of Cook County Illinois, and John J. Hanberg, his successor in office as County Treasurer of Cook County, Illinois, and *ex-officio* County Collector of Cook County, Illinois, and *ex-officio* Town Collector of the Town of North Chicago, and The City of Chicago, shall prosecute their appeal to effect, and answer all damages and costs if they fail to make their plea good, then the above obligation to be void; else to remain in full force and virtue.

S. B. RAYMOND, [SEAL.]
County Treasurer of Cook County, and ex-Officio County Collector of Cook County, Illinois.
JOHN J. HANBERG, [SEAL.]
Successor to Samuel B. Raymond, as County Treasurer of Cook County, Illinois, and ex-Officio County Collector of Cook County, Illinois, and ex-Officio Town Collector of the Town of North Chicago.
CITY OF CHICAGO,
[SEAL.] By E. F. DUNNE, *Mayor.*

Attest:
A. C. ANSON,
City Clerk.

NATIONAL SURETY COMPANY,
[SEAL.] CHARLES S. CRAIN,
Attorney in Fact.

Approved:
MARSHALL E. SAMPSELL, *Clerk.*

(Endorsed:) Filed Sep. 5, 1906. Marshall E. Sampsell, Clerk.

1796 *Præcipe for Record.*

In the Circuit Court of the United States, Northern District of Illinois, Eastern Division.

CHICAGO UNION TRACTION COMPANY
vs.
SAMUEL B. RAYMOND ET AL.

Præcipe for Record.

In Chancery. No. 26609.

To the Clerk of the above entitled Court:

You will please prepare transcript of the record in this cause, to be filed in the office of the Clerk of the Supreme Court of the United States, under the appeal heretofore perfected to said Court, and include in the said transcript the following pleadings, proceedings, and papers on file, to wit:—

1st. Engrossing order, allowing order entered and papers filed in Southern District to be filed and entitled in Northern District;

2nd. Bill of Complaint, filed February 14, 1902;

3rd. Answer of defendants, filed as of June 28th 1902;

4th. Replication, filed as of July 8th, 1902;

5th. Depositions and testimony, filed as of June 9th, 1902;

6th. Master's Report, as of June 9th, 1902;

1797 7th. Exceptions of defendants, to Master's Report, as of June 9th, 1902;

8th. Engrossed order of reference to Bishop, to take evidence and report same with conclusions of fact;

9th. Master's report, filed November 19th, 1904 together with the depositions of all witnesses, filed on said 19th day of November, 1904, annd attached to said Master's Report, together with all exhibits accompanying the same;

10th. Exceptions of defendants to Master's Report, filed December 1st, 1904;

11th. Petition of City of Chicago to intervene, filed May 19th, 1906;

12th. Order entered May 19th, 1906, giving the City of Chicago leave to intervene;

13th. Answer of the City of Chicago, filed May 19th, 1906;

14th. Opinion of Judge Grosscup, filed June 25th 1906;

15th. Final decree, entered July 25th, 1906;

16th. Order entered August 10th, 1906, correcting final decree as of July 25th, 1906;

17th. Engrossed order of August 13th, 1906, giving leave to John J. Hanberg, Collector, to enter his appearance as of July 25th, 1906;

18th. Appearance of John J. Hanberg, County Collector, entered as of July 25th, 1906;

19th. Certificate of Judge Grosscup, filed August 10th, 1906;

1798 20th. Petition for appeal, and assignment of errors of defendants, filed August 10th, 1906;

21st. Engrossed order allowing appeal, entered August 10th, 1906;

22nd. Appeal bond of the defendants, filed September 5, 1906.

Said transcript to be prepared as required by law and the rules of this Court, and the rules of the Supreme Court of the United States, and on file in the office of the Clerk of said Supreme Court at Washington, on or before September 29, 1906.

HARRY A. LEWIS,
WM. F. STRUCKMANN,
JAMES HAMILTON LEWIS, AND
DAVID K. TONE,
Solicitors for All Defendants.

(Endorsed:) Filed September 5, 1906. Marshall E. Sampsell, Clerk.

1799 And on to-wit: the twenty-sixth day of September 1906, there was filed in the clerk's office of said Court in said entitled cause a certain Stipulation extending time to file transcript of record in the Supreme Court. Said Stipulation is in words and figures following to-wit:

Stipulation Extending Time to File Transcript of Record.

In the Circuit Court of the United States, Northern District of Illinois, Eastern Division.

No. 26609.

CHICAGO UNION TRACTION COMPANY, Complainant,
vs.
SAMUEL B. RAYMOND ET AL., Defendants.

It is hereby stipulated between the parties to the above entitled cause, by their respective counsel, that the defendants' and appellants' time for filing a transcript of record in the above entitled cause, in the Supreme Court of the United States, be extended for twenty (20) days, that is, up to and including the 29th day of September, 1906.

W. W. GURLEY,
Counsel for Complainant.
HARRY A. LEWIS,
WM. F. STRUCKMANN,
JAMES HAMILTON LEWIS, AND
DAVID K. TONE,
Counsel for Defendants.

(Endorsed:) Filed Sept. 26, 1906, Marshall E. Sampsell, Clerk.

1800 NORTHERN DISTRICT OF ILLINOIS, *Eastern Division, ss:*

I, Marshall E. Sampsell, Clerk of the Circuit Court of the United States for the Northern District of Illinois, do hereby certify the above and foregoing to be a true and complete transcript of the proceedings had of record in said Court, made in accordance with Præcipe and Stipulation filed in the cause entitled Chicago Union Traction Company *vs.* Samuel B. Raymond, County Treasurer of Cook County, Illinois, and *ex-officio* County Collector, Cook County, Illinois, and John J. Hanberg, his successor as County Treasurer of Cook County, Illinois and *ex-officio* County Collector of Cook County, Illinois and *ex-officio* Town Collector of the Town of North Chicago, and The City of Chicago, General Number 26,609, as the same appears from the original records and files of said Court now remaining in my custody and control.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said Court at my office in the City of Chicago, in said District, this 27th day of September, 1906.

[Seal Circuit Court U. S., Northern Dist. Illinois, 1855.]

MARSHALL E. SAMPSELL, *Clerk.*

Endorsed on cover: File No. 20,389. N. Illinois C. C. U. S. Term No. 424. Samuel B. Raymond, county treasurer of Cook county, Illinois, and *ex-officio* county collector of Cook county, Illinois; John J. Hanberg, his successor as such county treasurer and county collector, *et al.*, appellants, *vs.* Chicago Union Traction Company. Filed October 2d, 1906. File No. 20,389.

Office Supreme Court, U.
FILED.
DEC 11 1906
JAMES H. McKENNE
Cl

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, A. D. 1906.

No. 715

SAMUEL B. RAYMOND, County Treasurer of Cook County, Illinois, et al.,
Appellants,

vs.

CHICAGO UNION TRACTION COMPANY,
Appellee.

Appeal from the Circuit Court of the United States for the Northern District of Illinois.

Notice of Motion to Advance and Set Down for Hearing.

HARRY A. LEWIS,
WILLIAM F. STRUCKMANN,
JAMES HAMILTON LEWIS AND
DAVID K. TONE,
Solicitors for Appellants.

Geo. Reynolds Co., Printers, Chicago.

IN THE

SUPREME COURT OF THE UNITED STATES,

OCTOBER TERM, A. D. 1906.

Samuel B. Raymond, County Treasurer of Cook County, Illinois, *et al.*, *Appellants*,
vs.
Chicago Union Traction Company, *Appellee.*
No. 424.

NOTICE OF MOTION TO ADVANCE AND SET DOWN FOR HEARING.

To:

W. W. GURLEY,
Solicitor for Chicago Union Traction Company.

Please take notice that on Monday, the 10th day of December, 1906, we shall appear before the Supreme Court of the United States in the City of Washington, D. C., at the opening of court on said day, or as soon thereafter as counsel can be heard, and move that the above entitled cause be taken up out of its order upon the docket of said court and advanced and set down for hearing upon some particular day of this term of said court, to be fixed by said court.

A copy of said motion, embodying the reasons in

support thereof, together with a printed copy of the final decree entered in said cause is herewith handed you, which will be filed with the clerk of said court.

HARRY A. LEWIS,
WILLIAM F. STRUCKMANN,
JAMES HAMILTON LEWIS, and
DAVID K. TONE,
Solicitors for Appellants.

Received a copy of the above notice and of said motion and final decree this ..... day of December, A. D. 1906.

FILED.
APR 1 1907
JAMES H. McKENNEY,
CLERK.

(20,389.)

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, A. D. 1906.

No. 424/15

SAMUEL B. RAYMOND, County Treasurer of Cook County, Illinois, and *ex officio* County Collector of Cook County, Illinois; JOHN J. HANBERG, his Successor as such County Treasurer and County Collector et al.,

Appellants,

vs.

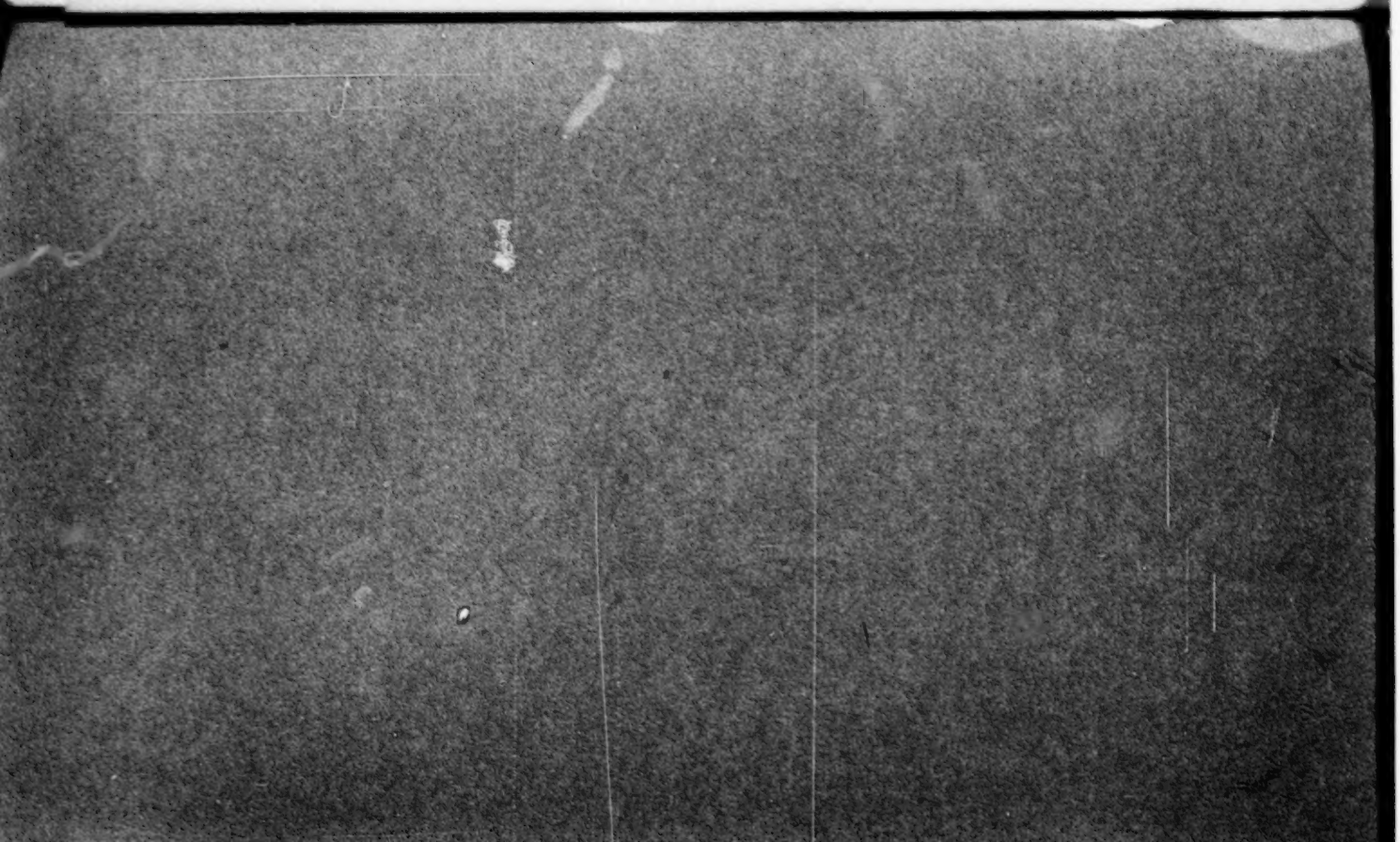
CHICAGO UNION TRACTION COMPANY.

Appeal from the Circuit Court of the United States for the Northern District of Illinois.

APPELLANTS' BRIEF.

JAMES HAMILTON LEWIS,
Corporation Counsel of the City of Chicago;
DAVID K. TONE,
Special Counsel for said City;
HARRY A. LEWIS,
County Attorney of Cook County;
WILLIAM F. STRUCKMANN,
Assistant County Attorney of said County;
WILLIAM H. STEAD,
Attorney General of the State of Illinois;
GEORGE B. GILLESPIE,
Special Assistant Attorney General of said State,
Solicitors for Appellants.

Geo. Barnsdale Co., Printer, Chicago.



IN THE

Supreme Court of the United States

OCTOBER TERM, A. D. 1906.

No. 424

SAMUEL B. RAYMOND, County Treasurer of Cook County, Illinois, and *ex officio* County Collector of Cook County, Illinois; JOHN J. HANBERG, his Successor as such County Treasurer and County Collector et al.,

Appellants,

vs.

CHICAGO UNION TRACTION COMPANY.

Appeal from the Circuit Court of the United States for the Northern District of Illinois.

APPELLANTS' BRIEF.

STATEMENT OF THE CASE.

On January 15, 1903, the appellee filed (Trans., 6) its amended bill of complaint (by stipulation as of February 14, 1902, Trans., 2) against Samuel B. Raymond, County Treasurer of Cook County, Illinois, and an *ex-officio* county collector of said county, and Julius Salomon, Town Collector of the Town of North Chicago in said county, seeking to enjoin said officials from enforcing against the appellee

and its lessor corporations a certain tax on capital stock and franchises of appellee levied pursuant to an assessment made by the State Board of Equalization of the State of Illinois, on the 22nd day of November, 1901, as and for the 1st of April, 1900. Six other bills of complaint were filed in the same court and at the same time and seeking to enjoin the collection of similar assessments made at the same time and in the same manner. All of said causes were heard at the same time in the court below, and are now pending in this court for hearing at the same time, on records that have been made up pursuant to the stipulations of their respective counsel, the appellees in the other cases being as follows:

Chicago Edison Company, Case Number 425;

Chicago City Railway Company, Case Number 426;

South Chicago City Railway Company, Case Number 427;

Peoples Gas Light and Coke Company, Case Number 428;

Chicago Telephone Company, Case Number 429;

Chicago Consolidated Traction Company, Case Number 430.

On April 1, 1900, the appellee, the Chicago Union Traction Company, was a corporation organized under the laws of the State of Illinois and engaged in operating street railroads within the City of Chicago. Said Chicago Union Traction Company was then holding and operating under 99-year leases the properties, franchises and ordinance rights of the following corporations: North Chicago City Railway Company, North Chicago Street Railroad Company, Chicago West Division Railway Company,

West Chicago Street Railroad Company, Chicago Passenger Railway Company. Under the terms of said leases the Chicago Union Traction Company was obligated to pay all taxes assessed against the properties of each of the foregoing lessor corporations.

The Chicago Consolidated Traction Company was also an Illinois corporation, engaged in operating street railroads within the City of Chicago. Said Chicago Consolidated Traction Company was likewise holding and operating the properties, franchises, and ordinance rights of eight lessor corporations under 99-year leases of like tenor, the following being the names of said corporations: Chicago Electric Transit Company, Chicago and Jefferson Urban Transit Company, Cicero and Proviso Street Railway Company, Evanston Electric Railway Company, North Chicago Electric Railway Company, North Side Electric Street Railway Company, Ogden Street Railway Company, and Chicago North Shore Street Railway Company.

For brevity, the Chicago Union Traction Company and its five lessor corporations above enumerated, will hereafter be designated as the Union Traction Company and its lessor corporations. The Chicago Consolidated Traction Company and its eight lessor corporations above enumerated will hereafter be designated as the Consolidated Traction Company and its lessor corporations.

On November 22, 1901, the State Board of Equalization of the State of Illinois assessed separately the capital stock and franchises of each of the above named lessor and lessee corporations. Inasmuch, however, as the Union Traction Company and the

Consolidated Traction Company were, by the terms of the leases above described, obligated to pay the taxes levied against their respective lessor corporations, the bills of complaint were brought by said Companies alone to enjoin the enforcement of the assessments made against the said Companies and their respective lessor corporations.

In order to understand the questions raised by this appeal, it will be necessary to briefly consider the powers and duties of the various officials authorized under the laws of the State of Illinois, to make assessments and to levy and collect taxes.

By the terms of the act in force July 1, 1898 (p. 1444, Section 3, Hurd's Revised Statutes of Illinois for 1899), there was established in Cook County a Board of Assessors consisting of five persons, whose duty it was to assess the real and personal property owned by persons and corporations on the first day of April each year, and set down in one column the "full value" of said property, and one-fifth of said full value in another column, which should be the "assessed value."

By the terms of the same act (Section 32), there was established a Board of Review, consisting of three persons, whose duty it was (Section 35), to increase or reduce the assessment made by the Board of Assessors.

By the terms of the Revenue Act of the State of Illinois, in force July 1, 1872, there was established a State Board of Equalization, consisting of one member from each Congressional District. (P. 1411, Sec. 100, Hurd's Revised Statutes of Illinois, 1899.) Said Board is charged with the duty of equalizing the valuations of real and personal property be-

tween the several counties after said values have been certified to the state auditor by the county officers. (Sections 107 and 111.)

Said Board is also charged with the duty (Sec. 108) of assessing *as original assessors* the capital stock and franchises of corporations (other than railroad and telegraph companies).

Said Board is also required *as original assessors* to assess the railroad track and rolling stock of railroads (Sec. 109) and the capital stock of railroad and telegraph companies.

All of the assessments made by said Board as original assessors are certified by said Board to the state auditor and by said auditor to the county clerks in the various counties where said corporations have their principal office or where said railroad and telegraph property is located. The county clerks of said respective counties are then required to extend the taxes on the amounts so certified.

Said Revenue Act further provides (Sec. 32) that corporations doing business of the character that the appellees in the above suits were pursuing should make out and deliver to the assessors a sworn statement, showing, among other things, the amount of the capital stock paid up by said corporations and "the market value, or if no market value, then the actual value of the shares of stock." And further (Sec. 33), that the assessors should extend said statements in the form of schedules and that such statements and such schedules should be returned by the assessors to the county clerk and by him forwarded to the state auditor, and by said state auditor placed before the Board of Equalization at its annual meeting. And further (Sec. 32), that in case

any corporation failed or refused to make such a statement, it should be the duty of the assessors to make up such schedules from the best information which they could obtain.

On the 1st day of April, 1900, the assessors of Cook County made an assessment of the tangible property of all of the above named appellees. Thirteen of the above named corporations whose assessments are here in controversy, being the lessor corporations of the Union Traction Company and the Consolidated Traction Company, failed to file any statements with the assessors. The seven other corporations in question, being the appellees in the cases now before this court, filed statements, but those statements did not give either the actual value or the market value of their shares of stock. The blanks calling for that information were either not filled out at all, or contained the statement that said values were unknown.

The Board of Assessors then made up schedules giving the above information in accordance with the provision of the statute. Said schedules were duly forwarded to the state auditor and by him placed before the State Board of Equalization. (Trans., 590.) The sworn statements made by said corporations were similarly placed before the State Board of Equalization. (Trans., 595-599.)

The said Board met for its annual session September 11, 1900 (Trans., 862), but took no steps towards assessing the capital stock and franchises of the above named corporations. On November 10, 1900, the state's attorney of Sangamon County filed a petition for a mandamus on the relation of certain taxpayers in the Circuit Court of said county

against said State Board of Equalization, alleging that said State Board willfully neglected and refused, during the year 1899 to assess the capital stock and franchises of the above named corporations, and many others in said petition enumerated, and that said Board claimed and pretended that it would, at its then session, similarly refuse to assess the capital stock and franchises of said corporations, or would assess the same at such a figure as to produce substantially no tax. Said petition set forth the amount of the capital stock of said corporations, the market value of the same, or if no market value, its actual value, and alleged that said information had been furnished to said Board, both by the schedules of the Board of Assessors of Cook County and by statements furnished by the relators and prayed that a writ of mandamus might issue against said Board.

On December 3, 1900, said State Board of Equalization adjourned (Trans., 322), and on that day the said Board, for the purpose of defeating the prosecution of said mandamus suit, assessed some of the above named corporations so low that said assessments were afterwards adjudged fraudulent by the Supreme Court, and omitted altogether to assess thirteen of said corporations. (Trans., 328.) The seven appellees in the cases before this court were assessed at a mere nominal figure, and the five lessor corporations of the Union Traction Company, the eight lessor corporations of the Consolidated Traction Company, were not assessed at all.

The fraudulent assessments above described were certified by the State Board of Equalization to the auditor and by him to the county clerk of Cook

County. The taxes were duly extended by said county clerk and during the months of January and February, 1901 (Trans., 9), said corporations paid the taxes extended pursuant to said fraudulent assessments to the various town collectors. It will be noted that said amounts were so paid while the said mandamus suit was pending and before it could be brought to trial.

During the month of April, 1901, said mandamus suit was tried and on the 1st day of May, 1901, a judgment was entered by the Circuit Court of Sangamon County, awarding a writ of mandamus, as prayed for in said petition. Said writ commanded said State Board to convene and forthwith assess the capital stock and franchises of the Union Traction Company and the Consolidated Traction Company and their respective lessor corporations, and that of all the other appellees.

An appeal was taken by the State Board from said judgment and on the 24th day of October, 1901, the Supreme Court of Illinois handed down an opinion, affirming said judgment. (Trans., 321.) (*State Board of Equalization* v. *People,* 191 Ill., 528.)

The Supreme Court of Illinois, in declaring the assessment made December 3, 1900, fraudulent and void, said (Trans., p. 327):

> "It was the duty of the State Board of Equalization to assess the capital stock, including the franchises, of said corporations at the fair cash value thereof. Instead of doing so, the respondents arbitrarily and willfully failed to follow a proper and long established rule in force in this state for making such assessments, by refusing to take into consideration, in making such assessments, the bonded indebtedness of said corporations. They also disregarded all

other rules for the making of such assessments in force at the time of the filing of this petition, and for the purpose of evading their duty sought to pass new rules for their government in making said valuations and assessments, and refused to consider the information then before them, furnished to them by the assessors, as provided by statute, and assessed the capital stock and franchises of said corporations at a nominal sum, instead of at the fair cash value thereof."

The Supreme Court of Illinois further pointed out (Trans., 330) that Section 3 of Chapter 120 (Hurd's Statutes for 1899, page 1394), required the State Board of Equalization to adopt rules for ascertaining the fair cash value of the capital stock and franchises of corporations, and that in 1873 certain rules were adopted by said Board, which were amended in 1889, and which remained in force at the time of the filing of said petition for mandamus, said rules being in the following language (Trans., p. 330):

"*First.* The market or fair cash value of the shares of capital stock and the market value or fair cash value of the debt to be determined by reference to the Stock Exchange or the books of said corporations; and the returns made to the State Board, or other means (excluding from such debt the indebtedness for current expenses), shall be combined or added together, and the aggregate amount so ascertained shall be taken and held to be the fair cash value of the capital stock, including the franchise, respectively, of such companies and associations.

"*Second.* From the aggregate amount ascertained, as aforesaid, there shall be deducted the aggregate amount of the equalized or assessed valuation of all tangible property, respectively, of such companies and associations (such equal-

ized or assessed valuation in each case, if any, shall be taken and held ,to be the amount and fair cash value of the capital stock, including the franchises) which this Board is required by law to assess, respectively, against companies and associations now or hereafter created under the laws of this state."

On the 22nd day of November, 1900, and immediately after the Circuit Court had overruled the demurrer of respondents to the petition for a mandamus, the State Board of Equalization, as the Supreme Court said, for the purpose of evading its duty, adopted certain new rules quoted in full in said opinion. (Trans., p. 331.)

Said rules, adopted on November 22, 1900, differed in many essential particulars from the first set of rules above quoted, and especially in this, that said second set of rules did not require the Board to add to the market value of the stock, the value of the indebtedness of the corporations. This new set of rules, the Supreme Court of Illinois said, was in conflict with the statutes of the State of Illinois, as they had been expounded by that court for a quarter of a century. The court held that it was the duty of the State Board of Equalization to assess the capital stock and franchises of said corporations, in accordance with the rules that were in force at the time the petition for mandamus was filed against them in the Circuit Court.

Thereupon the mandate of the Supreme Court was duly filed in the Circuit Court, and on the 2nd day of November, 1901 (Trans., 173), there issued a writ of mandamus against the said State Board of Equalization, commanding them to assess the capital stock

and franchises of the above named corporations. Said writ provided (Trans., 174):

> "That in arriving at said valuations and assessments of the capital stock, including the franchises of the corporations herein named, the said State Board of Equalization and the members thereof, and each of them, shall from the best information obtainable by it and them, ascertain and take into consideration, among other things, as to each such corporations, as the same was on the first day of April, 1900, the market value, or if no market value, then the fair cash value of its shares of stock, and the total amount of all its indebtedness except the indebtedness for current expenses, excluding from such expenses the amount paid for purchase or improvement of property and the assessed or equalized valuation of all tangible property of said corporations, respectively, on said April 1, 1900."

The original bill in this cause was filed in the Circuit Court of the United States, for the Southern District of Illinois, against the State Board of Equalization, seeking to enjoin said Board from making an assessment in compliance with said writ, and a restraining order was issued by said court in accordance with the prayer of said bill. On the 22nd day of November, 1902, said restraining order was dissolved (*Chicago Union Tr. Co.* v. *State Board of Equalization*, 112 Fed., 607), and thereafter, and on the same day, the State Board made the assessments on the capital stock and franchises of the Union Traction Company and its lessor corporations and the Consolidated Traction Company and its lessor corporations, and made a return to said writ of the making of said assessments. Thereafter

the suit filed by the Union Traction Company in the Circuit Court for the Southern District of Illinois was transferred to the Circuit Court of the United States for the Northern District of Illinois, and the amended bill of complaint on which this case was afterwards tried was filed against the county collector of Cook County and the town collector of the Town of North Chicago. (Trans., 6.)

The various allegations of appellee's bill of complaint when reduced to their lowest terms amount to this: that the constitution and the laws of the State of Illinois require uniformity and equality in the assessment of all property within the state, and that the State Board of Equalization in violation of those constitutional and statutory provisions made an assessment that was unequal, discriminating and unfair, which result was brought about in the following manner:

First: That the assessment of other property in the state, including that of railroad and telegraph companies and other corporations for the year 1900, as finally equalized by the State Board of Equalization, did not exceed one-fifth of seventy per cent of its cash value, whereas, the capital stock and franchises of appellee and the other corporations above named, were assessed at one-fifth of their full cash value.

Second: That the assessment of the capital stock and franchises of appellee and the other corporations above named was excessive, unreasonable, and much higher than assessments made upon the property of other persons and corporations for the same year.

Third: That the assessment of the capital stock

and franchises of appellee, made by the State Board of Equalization on December 3, 1900, and the payment in January, 1901, of taxes extended pursuant to said assessment constituted a full discharge by the appellee of all taxes that could be levied under the laws of the State of Illinois against its capital stock and franchises.

Fourth: That the members of the State Board of Equalization in making the assessment complained of did not exercise their own independent judgment, but believed that they were coerced by the mandamus in the Circuit Court into making the assessment for the amount and in the manner returned.

As the complainant and the defendants were all citizens and residents of the State of Illinois, the jurisdiction of the Circuit Court was based solely upon alleged violations of the Fourteenth Amendment, in that the State of Illinois had deprived appellee of its property without due process of law and had denied to appellee the equal protection of the laws.

The statutes of the State of Illinois, and the construction placed upon those statutes by the highest court of the state, required that the market value of property at the time it was assessed shall be the guide of the assessors. The Circuit Court ignored and refused to adopt market values as the basis on which to assess the capital stock and franchises of the appellee and its lessor corporations, but adopted in lieu thereof what was known as the capitalization plan.

On the 4th of April, 1902, when the application of the appellee for a preliminary injunction came on to be heard, the court required appellee to pay cer-

tain additional taxes, referred said cause to a Master, and directed said Master to determine the amount of said additional taxes upon the following basis (*Chicago Union Traction Co.* v. *State Board of Equalization,* 114 Fed., 557):

The full value of appellee's capital stock and franchises on April 1, 1900, should be ascertained by capitalizing the net earnings of appellee in its fiscal year, covering April 1, 1900, upon a basis of 6 per cent, full value to be computed at 16 2/3 times said net earnings. Said full value should be equalized by deducting 30 per cent therefrom and one-fifth of said equalized value, so ascertained, should be taken as the equalized value upon which complainant should have paid taxes for the year 1900. From said amount should be deducted the taxes already paid and the balance should be the additional tax to be paid by the appellee upon its capital stock and franchises.

The Master filed a preliminary report (Trans., 38) in which said Master found that appellee should pay $134,350.03 in addition to the taxes previously paid, said sum to be in full of all taxes to be paid by appellee on its tangible property and upon its capital stock and franchises for the year 1900. Similar orders were made in the other six cases and similar reports and computations were filed by said Master.

To the report of said Master the appellants filed exceptions (Trans., 96), which exceptions were overruled by the court. A demurrer was filed to the appellee's bill of complaint, which demurrer was overruled by the court, and subsequent thereto the appellants filed their answer (Trans., 30), admitting

that the assessments were made as alleged in appellee's bill and that the taxes were by the county clerk of Cook County duly extended pursuant to such assessments, but denying all charges of fraud, illegality and discrimination. Said answer denied that the State Board of Equalization neglected and refused to equalize the assessment made on appellee's property with the assessments made on other property by the taxing officers of the State of Illinois, but alleged that the assessment made on appellee's property was duly equalized in conformity with the law. Said answer denied that the State Board of Equalization, in making the assessment of November 22, 1900, on the capital stock and franchises of appellee, was acting under fear or coercion, but said answer charged that said assessment was made by said State Board of Equalization in the exercise of its honest independent judgment and discretion. Said answer further alleged that the full amount of taxes named in the collector's warrants for the Town of North Chicago and extended against the appellee and its lessor corporations was due and payable. Similar answers were filed in all the other cases. A replication was filed to said answer and said cause was then heard upon the proofs offered by the respective parties before Henry W. Bishop, the Master in Chancery of said court. (Trans., 101.)

On the 19th day of May, 1906, the City of Chicago filed an intervening petition (Trans., 1263), alleging that it was the beneficial owner of the greater portion of the taxes here in controversy, and asking that it be made a party to this cause, and that it be permitted to file an answer, and there-

after (Trans., 1267) an order was entered granting the prayer of said petition.

A vast amount of evidence was taken before the Master, but the evidence offered in behalf of appellee, in so far as it is material to the questions presented by this record, may be classified under the following heads:

1. The testimony of four out of twenty of the members of the State Board of Equalization, who made the assessments complained of in reference to the operation of their own minds at the time the assessments were made.

2. Certain extracts from the reports of the Railroad and Warehouse Commissioners for the State of Illinois and the reports of the Board of Agriculture of the State of Illinois.

3. Certain extracts from the records of the Union Stock Yards and Transit Company in reference to the value of horses, cattle and hogs within the State of Illinois and certain extracts from Brown's Directory of American Gas Companies, both of said publications being private compilations.

4. A statement purporting to show the number of horses, cattle and hogs in the State of Illinois, returned for taxation in the year 1900 by the local assessors, as compared with the number purported to be shown in the state by the United States Census Report of 1890; and certain statements purporting to show the aggregate assessments and the total value of the property assessed in the State of Illinois and Cook County from 1873 to 1900.

5. The records of the proceedings of the State Board of Equalization showing the assessments made on the capital stock and franchises of the cor-

porations above named during the years 1899, 1900 and 1901, and certain extracts from the records of said Board for prior years.

6. The testimony of the officers and agents of the complainant corporations in reference to the amounts and values of their properties in the City of Chicago on the 1st day of April, 1900.

The appellee objected to the admissibility and competency of the first four items of evidence above described, but the court overruled said objections and took said evidence into consideration on the final hearing of the cause.

The writ of mandamus (Trans., 483), following the language of the statute, commanded the Board to take into consideration, in making the assessment complained of, "among other things, as to each said corporation, as the same was on the 1st day of April, 1900, the market value, or if no market value, then the fair cash value of its shares of stock." There was nothing in the writ of mandamus that commanded the State Board not to equalize the assessments on the corporations above named and there was nothing in that writ that commanded the State Board to assess the property of said corporations on any other basis than the other property of the state was assessed, but on the contrary, the writ itself commanded the Board to assess the property of said corporations in precisely the same way that the other properties in the state were to be assessed.

The report of the State Board of Equalization shows that said Board did equalize the assessments on the property of the appellee and its lessor corporations, and assessed the capital stock and fran-

chises of said corporations in strict conformity to the laws of the State of Illinois.

The report of the committee on capital stock and franchises of the State Board of Equalization, which report was adopted by said Board, recites, concerning the assessment here complained of (Trans., 240):

> "It has valued and assessed the capital stock, including the franchise, of each of the corporations and companies hereinafter named in Schedule A, as to the values on the 1st day of April, A. D. 1900, in the manner provided by law, so as to ascertain and determine, respectively, as to each of said corporations, the fair cash value of its capital stock, including franchise, over and above the assessed value of tangible property of such corporations for the year 1900."

The report of the State Board of Equalization, which was certified to the state auditor and by him certified to the county clerk, is of the same import, for that recites, concerning the assessment here in controversy, "being the equalized value of the capital stock, including franchises, over and above the assessed value as equalized, of the tangible property of such corporations, assessed by local assessor."

November 19, 1904 (Trans., 97), the Master filed his final report in this cause, in which he found that the material allegations of appellee's bill of complainant were sustained by the proofs and that no taxes were due from the appellee. To said report exceptions were duly filed. (Trans., 1257.) The Circuit Court, however, heard the case, not upon the Master's report and the exceptions thereto, but upon

the testimony taken before the Master. (Trans., 1292.)

On the 25th of June, 1906, the Circuit Court handed down an opinion (Trans., 1275), and in the course of said opinion the court stated that (Trans., 1277):

> "The re-assessment of each of the complainant corporations for 1900 is a close approximation to the aggregate of its indebtedness and its stock value, as measured by the stock market quotations for April 1, 1900."

The court then went on to point out that stock market quotations did not furnish a proper basis for determining the value of appellee's capital stock for taxing purposes, but that the value of such securities should be determined by capitalizing the net income at 6 per cent.

On the 25th of July, 1906 (Trans., 1289), the court entered final decree, finding that the additional tax of $134,350.03 paid by appellee on July 1, 1902, pursuant to the recommendations of the preliminary Master's report, was all that appellee and its lessor corporations were required to pay, and the court perpetually enjoined the appellants from enforcing or attempting to enforce the assessment made on the 22nd day of November, 1900, and from collecting and attempting to collect the balance of the taxes extended pursuant to said assessment, the balance so enjoined, less the penalty, amounting to $774,833.97.

From said decree the appellants have prosecuted an appeal to this court. Appellant's various assignments of errors have been classified in the specification of errors under the following subdivisions:

I. The Circuit Court erred in refusing to dismiss this cause for want of jurisdiction.

II. The Circuit Court erred in admitting incompetent evidence in behalf of the appellee and in refusing to hold that there was no competent evidence tending to prove the allegations of appellee's bill of complaint.

III. The Circuit Court erred in refusing to hold that the appellee had not made out a case entitling it to relief in a court of equity.

IV. The Circuit Court erred in enjoining the collection of the tax in question without requiring appellee to pay, in addition to the amount already paid, the sum of $774,833.97.

The various assignments of errors will be argued under a like classification.

SPECIFICATIONS OF ERRORS.

I.

The Circuit Court erred in refusing to dismiss this cause for want of jurisdiction. (Trans., 1294, 1295.)

First. The said Circuit Court erred in failing and refusing to dismiss this cause for want of jurisdiction in a Federal Court, appearing upon the face of complainant's bill of complaint.

Second. The said Circuit Court erred in failing to dismiss complainant's bill of complaint for want of jurisdiction, because the undisputed evidence in this record shows that a Circuit Court of the United States is without jurisdiction to hear and determine the matters and things charged in complainant's bill.

Third. The said Circuit Court erred in refusing to hold that the allegations of the complainant's bill of complaint show that complainant has not been denied by the State of Illinois or its officers, any right, privilege or immunity guaranteed to the complainant by the Fourteenth Amendment to the Constitution of the United States.

Fourth. The said Circuit Court erred in refusing to hold that the allegations of complainant's bill of complaint show that the complainant has not been deprived of its property without due process of law, in violation of the Constitution of the United States.

Fifth. The said Circuit Court erred in refusing to hold that the State of Illinois had not denied to the complainant the equal protection of its laws within its jurisdiction.

Sixth. The said Circuit Court erred in refusing to find that the sole grievance complained of in complainant's bill of complaint is that the officers of the State of Illinois charged with the duty of making a fair and equal assessment of the complainant's capital stock, have made an assessment that is unfair and unequal, contrary to and in violation of the Constitution and the laws of the State of Illinois; and said Circuit Court likewise erred in assuming and retaining jurisdiction of this cause, when, upon the face of complainant's bill of complaint, it appears that the said Circuit Court was without jurisdiction.

Seventh. The said Circuit Court erred in refusing to hold that inasmuch as the complainant and defendants were all citizens of and residents of the State of Illinois, a Federal Court had no jurisdiction in this cause to hear and determine the fairness,

equality or regularity of the assessment made against the complainant and its said lessor corporations, and the said Circuit Court erred in refusing to dismiss this cause for want of jurisdiction.

II.

The Circuit Court erred in admitting incompetent evidence in behalf of appellees, and in refusing to hold that there was no competent evidence tending to prove the allegations of appellee's bill of complaint. (Trans., 1295 to 1300.)

Ninth. The said Circuit Court erred in overruling the objections and exceptions and each and every of said objections and each and every of said exceptions to the said Masters' reports and to each of them.

Tenth. The said Circuit Court erred in approving and confirming the Masters' reports and each of them, filed in this cause.

Eleventh. The said Circuit Court erred in failing and refusing to sustain the objections and each and every of the same filed by the defendants to said Masters' reports and to each of said reports.

Twelfth. The said Circuit Court erred in finding that all of the material allegations of the bill of complaint are sustained by the evidence and likewise in finding that the equities of the case are with the complainant.

Thirteenth. The said Circuit Court erred in failing to find that the material allegations of the bill of complaint in this cause have not been proved by any competent evidence.

Fourteenth. The said Circuit Court erred in find-

ing that the assessment made by the State Board of Equalization of the State of Illinois at its session in 1901 against the complainant, the Chicago Union Traction Company, upon its capital stock for the year 1900, amounting to $29,370, and upon the capital stock of The North Chicago City Railway Company, amounting to $1,020,000, and upon the capital stock of the North Chicago Street Railroad Company, amounting to $3,641,600, and upon the capital stock of the Chicago West Division Railway Company, amounting to $2,120,500, and upon the capital stock of the West Chicago Street Railroad Company, amounting to $4,814,220, and upon the capital stock of the Chicago Passenger Railway Company, amounting to $348,000, such assessments in the aggregate amounting to $11,973,690, was made under the coercion and influence of a writ of mandamus issued by the Circuit Court of Sangamon County, in the State of Illinois, and did not represent the real and independent judgment of the said Board of Equalization.

Fifteenth. The said Circuit Court erred in failing and refusing to find that the assessment, amounting in the aggregate to $11,973,690, made by the State Board of Equalization of the State of Illinois at its session in 1901 against the complainant, the Chicago Union Traction Company, upon its capital stock for the year 1900 and upon the capital stock of the lessor corporations of said Chicago Union Traction Company, named in said decree, also for the year 1900, were each and every of them made by the said State Board of Equalization in the exercise of its own judgment and upon its official responsibility.

Sixteenth. The said Circuit Court erred in finding that the assessments made by the State Board of Equalization at its meeting, held in 1901, upon the capital stock of said complainant and upon the capital stock of the lessor corporations of said Chicago Union Traction Company, and upon the capital stock of the other corporations, for the year 1900, named in the writ of mandamus, issuing from the Circuit Court of Sangamon County, Illinois, were in fact made upon a materially different basis from that upon which the capital stock of all other corporations of the same class were assessed by the State Board of Equalization for the year 1900, and also upon a basis materially different from that upon which other taxable property in the State of Illinois was assessed for the year 1900.

Seventeenth. The said Circuit Court erred in refusing and failing to find that the only competent evidence contained in the record in this cause showed that the assessments made by the State Board of Equalization at its meeting held in 1901 upon the capital stock of said complainant and upon the capital stock of the lessor corporations of said Chicago Union Traction Company, in said decree mentioned, and upon the capital stock of the other corporations for the year 1900, named in the writ of mandamus issuing from the Circuit Court of Sangamon County, Illinois, were in fact made upon the same or a similar basis as that upon which the capital stock of all other corporations of the same class *were* assessed by the State Board of Equalization for the year 1900, and also that said assessments as to each of said corporations were made upon the same or a similar basis upon which all other taxable property

in the State of Illinois was assessed for the year 1900.

Eighteenth. The said Circuit Court erred in finding that said assessment made in 1901 on the capital stock of complainant and its lessor corporations, named in said decree, was made under the coercion and influence of a writ of mandamus issuing from the Circuit Court of Sangamon County, Illinois, without the exercise or application of the judgment of the State Board of Equalization or the members thereof, to the ascertainment of the value of said capital stock and without the State Board of Equalization, either in fact or in form, taking into consideration the basis upon which all other taxable property in the State of Illinois was assessed and taxed for the year 1900 and without in fact or in form equalizing the value or assessment of the capital stock of said complainant for the year 1900 with all or any of the assessments made upon other taxable property in the State of Illinois for the year 1900, with the result that said assessment made on the capital stock of the complainant and upon that of its aforesaid lessor corporations, made in the year 1901 for the year 1900, was made on a much higher basis than that upon which the other taxable property of the State of Illinois was assessed and taxed for the year 1900.

Nineteenth. The said Circuit Court erred in refusing and failing to find that the assessment made in the year 1901 on the capital stock of the complainant and its lessor corporations, named in said decree, was made without any coercion and in the exercise of the independent judgment of the State Board of Equalization and the members thereof, for

the purpose of ascertaining the fair value of the capital stock of said corporations and each of them, and that said assessment was obtained and resulted from the said State Board of Equalization equalizing the value and assessment of the capital stock of said complainant and its lessor corporations for the year 1900 with all of the assessments made upon other taxable property in the State of Illinois, and that the assessment so arrived at was just and fair to the said complainant and its lessor corporations.

Twentieth. The said Circuit Court erred in finding that the making of the assessment for the year 1900 upon the capital stock of said complainant and upon that of its lessor corporations, named in said decree, and the extension of the taxes thereon, and the attempt to enforce the payment of the taxes so extended from complainant and from its aforesaid lessor corporations was and is a violation of the Fourteenth Amendment of the Constitution of the United States.

Forty-second. The said Circuit Court erred in admitting and receiving in evidence, over the objection and exception of defendants' counsel, oral testimony for the purpose of explaining, varying and contradicting the official acts, records and proceedings of the State Board of Equalization for the years 1900 and 1901, wherein and whereby said Board made the assessment against the property of the complainant sought to be enjoined in this cause.

Forty-third. The said Circuit Court erred in refusing and failing to hold that parol evidence was incompetent, for the purpose of explaining, varying or contradicting the official acts, records and proceedings of the State Board of Equalization of the

State of Illinois, in reference to the assessments on the capital stock of the complainant, made by the said Board in the year 1901, for the year 1900.

Twenty-third. The said Circuit Court erred in admitting and receiving in evidence over the objection and exception of defendants' counsel, the following testimony of Samuel M. Barnes, a member of the State Board of Equalization, of the State of Illinois, for the years 1900 and 1901:

I heard the members of the State Board of Equalization discussed the remarks of the court on the application for an extension of time to make return to the writ of mandamus. My recollection of one remark that I heard was that it was a mere question of the Board's getting their pencils and getting to work and they ought to do it. I heard one of the Board say that the court was very vituperative in this matter. I think it was either Mr. Schaefer or Mr. Hopkins of the committee on the Board who was over there listening to the court. The impression I got was very strongly fixed in my mind and it was that his attitude was intensely hostile to the Board and I was told by those who heard him that it was in the shape of a roast from start to finish as far as his manner was concerned. Of course, I cannot just quote the language that he used, but rather his manner I was told was vituperative, absolutely so. I was told this by members of the State Board of Equalization who were present and heard the remarks of the judge. The re-assessment, as we determined it, was made with a view to satisfying the court, the order of the court. We made no deduction, if I remember rightly, on account of that all of these companies but two had in 1900 been as-

sessed upon their capital stock. We did not take into consideration the fact, if it was a fact, that other property in the state had not been assessed at the maximum more than 70 per cent of its value. The court, in his discussion, gave an illustration of the manner in which the assessment should be made and I think he made an example of the Gas Company here; in any event one of the companies he made an example of that and in that example he said just how the assessment should be made and as this was an order of the court, we followed that example that he gave in a general way, for all these assessments. Mr. Smith and Mr. Greenacre furnished these tables (referring to complainant's Exhibit A,10/23/03) said document being a compilation of the value of the capital stock of said companies, prepared by Miss Goggin and Miss Haley, as members of the Teachers' Federation. Our desire in making this reassessment was in order to satisfy the Circuit Court of Sangamon County, because it was not my judgment that it was a proper assessment. The general idea seemed to be with the committee on capital stock that the action of the committee was dictated by the court. It was discussed between the committee on capital stock at about the time the reassessment was reported to the board and the first object to be attained was to satisfy the court. The assessments that were made subsequent to this assessment of 1900 were based on what we believed to be the law and in a general way on the judgment of the members, that is on the real values. The assessment for 1901 we regarded as representing our real judgment and the other we did to satisfy the court. The restraining order issued by the court was dis-

solved on the 22d of November and I think it was a very short time after that on that day that we made our return to the writ.

Twenty-fourth: The said Circuit Court also erred in admitting in evidence, over the objection of defendants' counsel, the testimony of Frank P. Martin, a member of the State Board of Equalization, which was in substance the same as the testimony of said Barnes. (Trans., 1299.)

Twenty-fifth: The said Circuit Court erred in receiving in evidence, over the objection of defendants' counsel, the testimony of John S. Cruttenden, a member of the State Board, which was in substance the same as the testimony of said Barnes. (Trans., 1300.)

Twenty-sixth: The said Circuit Court erred in receiving in evidence, over the objection of defendants' counsel, the testimony of Louis D. Hirsheimer, a member of the State Board of Equalization, which was in substance the same as the testimony of said Barnes. (Trans., 1301.)

Twenty-eighth: The said Circuit Court erred in receiving in evidence, over the objection of the defendant, the Report of the Railroad and Warehouse Commissioner of the State of Illinois for the year 1900, and the Report of the Commissioner of Agriculture of the State of Illinois for the same year, and Brown's Directory of American Gas Companies. (Trans., 1302.)

Thirty-second: The said Circuit Court erred in admitting in evidence, over the exception of defendant, the statement, being Ward Exhibit C, purporting to show live stock returned for taxation in 1900 by local assessors as compared with live stock

according to the United States census returns. (Trans., 1313.)

III.

The Circuit Court erred in refusing to hold that appellee had not made out a case entitling it to relief in a court of equity. (Trans., 1297.)

Twenty-second: The said Circuit court erred in ordering, adjudging and decreeing that the assessment of $11,973,690, on the capital stock of the complainant and on the capital stock of the lessor corporations of the complainant, named in said decree, made by the State Board of Equalization in the year 1901, for the year 1900, and the taxes levied and extended thereon and now spread upon the books of the tax collection agency of the County of Cook and State of Illinois for collection, are, and each of them is, illegal, null and void, and that the defendants, Samuel B. Raymond, County Treasurer of Cook County, Illinois, and ex-officio County Collector of Cook County, Illinois, and ex-officio Town Collector of the Town of North Chicago, and John J. Hanberg, his successor as County Treasurer of Cook County, Illinois, and ex-officio County Collector of said county, and ex-officio Town Collector of the Town of North Chicago, in said county, and his successor and successors in office as such County Treasurer and ex-officio County Collector and ex-officio Town Collector of the Town of North Chicago, and the defendant, the City of Chicago, and each of them and each and every of their respective agents, deputies, servants, attorneys and representatives, be and are perpetually enjoined and restrained from in any wise levying or collecting or

in any manner attempting, directly or indirectly, to levy or collect or to enforce against the complainant or against any of its property, or against the aforesaid lessor corporations of complainant or against any of said property, or the property of either of them, the said tax or taxes or any part thereof.

IV.

The Circuit Court erred in enjoining the collection of the tax in question. (Trans., 1297.)

Twenty-first. The said Circuit Court erred in entering the order on the 28th day of June, 1902, to the effect that the complainant should pay, in addition to the taxes already paid, upon the first or original capital stock assessment for the year 1900, the further sum of $134,350.03, making a total capital stock tax to be paid by the complainant for the year 1900 of $187,252.03, which was found and decreed by the court to be all that complainant and its aforesaid lessor corporations should equitably be required to pay as a capital stock tax for the year 1900, for said Circuit Court should have found, if it had jurisdiction of this cause and of the parties hereto, that the complainant should be required to pay the aggregate amount of all taxes assessed against it in the year 1901 as and for the year 1900 upon its capital stock and upon the capital stock of its lessor corporations, aggregating $11,973,690.

Twenty-second. The said Circuit Court erred in ordering, adjudging and decreeing that the assessment of $11,973,690 on the capital stock of the complainant and on the capital stock of the lessor corporations of the complainant, named in said decree,

made by the State Board of Equalization in the year 1901 for the year 1900 and the taxes levied and extended thereon and now spread upon the books of the tax collection agency of the County of Cook and State of Illinois for collection, are, and each of them is, illegal, null and void, and that the defendants, Samuel B. Raymond, County Treasurer of Cook County, Illinois, and ex-officio County Collector of Cook County, Illinois, and ex-officio Town Collector of the Town of North Chicago, and John J. Hanberg, his successor as County Treasurer of Cook County, Illinois, and ex-officio County Collector of said County, and ex-officio Town Collector of the Town of North Chicago, in said county, and his successor and successors in office as such County Treasurer and ex-officio County Collector and ex-officio Town Collector of the Town of North Chicago, and the defendant, the City of Chicago, and each of them and each and every of their respective agents, deputies, servants, attorneys and representatives be and are perpetually enjoined and restrained from in anywise levying or collecting or in any manner attempting, directly or indirectly, to levy or collect or to enforce against the complainant or against any of its property, or against the aforesaid lessor corporations of complainant or against any of said property, or the property of either of them, the said tax or taxes or any part thereof.

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ARGUMENT.

I.

APPELLEE'S BILL OF COMPLAINT SHOULD HAVE BEEN DISMISSED BY THE CIRCUIT COURT FOR WANT OF JURISDICTION.

The Circuit Court of the United States had no jurisdiction of the alleged grievances charged in appellee's bill of complaint, for the complainants and the defendants were all residents and citizens of the State of Illinois, and no federal question is presented by appellee's bill of complaint.

The various allegations of appellee's bill of complaint when reduced to their lowest terms amount to this: that the constitution and the laws of the State of Illinois require uniformity and equality in the assessment of all property within the state, and that the State Board of Equalization in violation of those constitutional and statutory provisions made an assessment that was unequal, discriminating and unfair, which result was brought about in the following manner:

First: That the assessment of other property in the state, including that of railroad and telegraph companies and other corporations for the year 1900, as finally equalized by the State Board of Equalization, did not exceed one-fifth of seventy per cent of its cash value, whereas, the capital stock and franchises of appellee and the other corporations above named, were assessed at one-fifth of their full cash value.

Second: That the assessment of the capital stock and franchises of appellee and the other corporations above named was excessive, unreasonable,

and much higher than the assessments made upon the property of other persons and corporations for the same year.

Third: That the assessment of the capital stock and franchises of appellee made by the State Board of Equalization on December 3, 1900, and the payment in January, 1901, of the taxes extended pursuant to said assessment constituted a full discharge by the appellee of all taxes that could be levied under the laws of the State of Illinois against its capital stock and franchises.

Fourth: That the members of the State Board of Equalization in making the assessment complained of did not exercise their own independent judgment, but believed that they were coerced by the writ of mandamus of the Circuit Court into making the assessment for the amount and in the manner returned.

An examination of each of the foregoing alleged irregularities in the assessment complained of shows that none of them present a federal question. Before the jurisdiction of a Federal Court can be invoked under the fourteenth amendment, the complainant must show two things:

First, that he is denied some right, privilege, or immunity guaranteed by the federal constitution; and, second, that such denial is the act of the state, and not merely the illegal and unauthorized act of state officials done contrary to and in violation of state law.

An examination of the prior decisions of this court will demonstrate that appellee's bill of complaint fails to meet either of the above requirements. Appellee's bill of complaint is predicated upon the theory that equality and uniformity of taxation is a right guaranteed by the federal constitution un-

der the fourteenth amendment. That contention is unsound. The constitution of Illinois provides, Section I, Article 9:

> "The General Assembly shall provide such revenue as may be needful by levying a tax, by valuation, so that every person and corporation shall pay a tax in proportion to the value of his, her or its property—such value to be ascertained by some person or persons, to be elected or appointed in such manner as the General Assembly shall direct, and not otherwise; but the General Assembly shall have power to tax peddlers * * * or corporations owning or using franchises and privileges, in such manner as it shall from time to time direct by general law, uniform as to the class upon which it operates."

Paragraph 1, Section 3, Hurd's Stat., 1899, page 1393 provides:

> "All personal property, except as herein otherwise directed, shall be valued at its fair cash value."

And Section 108 of said chapter (Hurd's Stat., 1899, p. 1412) provides:

> "The State Board of Equalization shall assess the capital stock of each company or association, respectively, now or hereafter incorporated under the laws of this state, in the manner hereinbefore in this act provided. The respective assessments so made (other than of the capital stock of railroad and telegraph companies) shall be certified by the Auditor, under direction of said Board, to the County Clerk of the respective counties in which such companies or associations are located, and said clerk shall extend the taxes for all purposes on the respective amounts so certified the same as may be levied on the other property in such towns,

districts, villages or cities in which such companies or associations are located."

It will be observed that the foregoing statutory and constitutional provisions, imposed upon the State Board of Equalization the duty of assessing the capital stock and franchises of corporations at its fair cash value in precisely the same way that all other property throughout the state is assessed. Uniformity and equality of taxation is thus guaranteed to Illinois corporations by the constitution and the laws of the State of Illinois. The Board of Assessors and the Board of Review are charged with the duty in Cook county of assessing the tangible property of persons and corporations; the State Board of Equalization is charged with the duty as original assessors of assessing the capital stock and franchises of corporations. The Board of Assessors, the Board of Review and the State Board of Equalization are thus charged with the ministerial duty of making equal and uniform assessments of real and personal property in accordance with the constitutional and statutory provisions above quoted. The Supreme Court of Illinois has repeatedly held that it is the duty of these ministerial officers of the state, to carry out the constitutional and statutory provisions in reference to uniformity and equality of taxation, and if the assessing officers of the state corruptly and fraudulently fail to do their duty in that regard, equity will in a proper case interfere and afford to the aggrieved party full relief.

The Circuit Court judge, in his opinion (Trans., 1279), after quoting the constitutional and statutory provisions above set forth, stated that the constitution and the laws of the State of Illinois provided for uniformity and equality of taxation throughout

the state, and the court reached the conclusion (Trans., 1283) that any substantial departure by the State Board from the laws of the State of Illinois in that regard constituted a taking of property without due process of law. Continuing, the court said (Trans., 1283):

> "Any substantial departure, therefore, in the collection of taxes, from the law, either as to the authority for a tax or its purpose, or the provisions for the just distribution of its burdens, is a departure from due process of law."

An examination of the decisions of this court, will plainly demonstrate that the Circuit Judge was in error in his fundamental assertion in this case, that any substantial departure from the laws of the State of Illinois, on the part of the officers of the State of Illinois, in levying and collecting taxes, constitued the taking of property without due process of law in violation of the federal constitution.

A.

The law is well settled by the decisions of this court that equality and uniformity of taxation is not a right guaranteed by the Federal Constitution.

The following are a few of many decisions of this court laying down the above rule:

State Railroad Tax Cases, 92 U. S., 575, 618.

Davidson v. *Board of Admrs. of New Orleans*, 96 U. S., 97.

Kelly v. *City of Pittsburgh*, 104 U. S., 78.

Merchants & Mfrs. Nat. Bank v. *Pennsylvania*, 167 U. S., 461-4.

Henderson Bridge Co. v. *City of Henderson*, 173 U. S., 592.

Magoun v. *Ill. Trust & Sav. Bank,* 170 U. S., 283, 293, 295.

Connolly v. *Union Sewer Pipe Co.,* 184 U. S., 540, 562.

State of Missouri ex rel. Hill v. *Dockery,* 191 U. S., 165, 170.

Travelers Ins. Co. v. *Connecticut,* 185 U. S., 364, 371.

In *State Railroad Tax Cases,* 92 U. S., 575, 612, this court said:

> "Perfect *equality* and perfect *uniformity* of taxation as regards individuals or corporations, or the different classes of property subject to taxation, is a dream unrealized. It may be admitted that the system which most nearly attains this is the best. But the most complete system which can be devised must, when we consider the immense variety of subjects which it necessarily embraces, be imperfect. And when we come to its application to the property of all the citizens, and of those who are not citizens, in all the localities of a large state like Illinois, the application being made by men whose judgments and opinions must vary as they are affected by all the circumstances brought to bear upon each individual,—the result must inevitably partake largely of the imperfection of human nature and of the evidence on which human judgment is founded."

It will be observed that the above language was used in a case where the Circuit Court of the United States had acquired jurisdiction by reason of the diversity of citizenship of the parties, and where that court was charged with the same duty as would be the State court in enforcing the constitutional and statutory provisions of the State of Illinois, guaranteeing uniformity and equality of taxation.

Davidson v. *Board of Admrs. of New Orleans,* 96

U. S., 97, was a writ of error sued out of this court to review a judgment of the Supreme Court of Louisiana, which latter judgment affirmed an assessment made against the property of plaintiff in error. It was argued in this court that the assessment in question was unequal, extortionate and in violation of the taxing laws of the State of Louisiana. This court held that a violation of the taxing laws of the State of Louisiana by the state officials and the making of an extortionate and unfair assessment did not infringe any right guaranteed by the federal constitution and said (p. 104):

> "That whenever by the laws of a State, or by State authority, a tax, assessment, servitude, or other burden is imposed upon property for the public use, whether it be of the whole State or of some more limited portion of the community, and those laws provide for a mode of confirming or contesting the charge thus imposed, in the ordinary courts of justice, with such notice to the person, or such proceeding in regard to the property as is appropriate to the nature of the case, the judgment in such proceedings cannot be said to deprive the owner of his property without due process of law, *however obnoxious it may be to objectors.*
>
> "*It may violate some provision of the State constitution against unequal taxation; but the federal constitution imposes no restraints on the States in that regard.*"

Kelly v. *City of Pittsburg*, 104 U. S., 78, was a writ of error to the Supreme Court of Pennsylvania, brought to review a judgment of that court affirming the validity of a tax assessed by the City of Pittsburgh against the property of the plaintiff in error. The plaintiff in error in that case alleged that his property was assessed at a sum "enormously beyond its value, and which, he alleges, is almost de-

structive to his interest in the property." It was also alleged that the land of the plaintiff in error was a farm used for agricultural purposes and that it was assessed and valued as city lots; and this court said:

> "It is alleged, and probably with truth, that the estimate of the value of this land for taxation is very greatly in excess of its true value."

This court held that the above fact did not raise a federal question and said (page 83):

> "This court cannot say in such cases, *however great the hardship or unequal burden*, that the tax collected for such purposes is taking the property of the tax power without due process of law."

In *Merchants' & Mfrs. Nat. Bank* v. *Pennsylvania*, 167 U. S., 461-4, this court said:

> "This whole argument of a *right under the Federal Constitution* to challenge a tax law on the ground of *inequality* in the burdens resulting from the operation of the law is put at rest by the decision in *Bell's Gap R. Co.* v. *Pennsylvania*, 134 U. S., 232."

And in *Travelers' Insurance Co.* v. *Connecticut*, 185 U. S., 364-371, the same doctrine was laid down and the above excerpt quoted with approval.

State of Missouri v. *Dockery*, 191 U. S., 165, was a writ of error to the Supreme Court of Missouri brought to review a judgment of that court, which judgment affirmed the judgment of the state Circuit Court quashing an alternative writ of mandamus directed to the State Board of Equalization. The petition there alleged that the board "instead of assessing the total actual cash value of taxable property of certain railroad, bridge, telephone, tele-

graph and express companies, made pretended, fraudulent, inadequate, and not uniform assessments upon such property, at valuations varying from about a quarter to forty-eight per cent of the actual value, except that of the express companies, which they did not assess at all."

It will be observed that the action of the State Board of Equalization of the State of Missouri, in fraudulently undervaluing the property of a large number of companies and corporations, and in omitting altogether to assess others, destroyed all equality and uniformity in the taxing system of the state, and compelled the plaintiff in error to pay an unjust burden of taxation, and a much greater amount than he would have been compelled to pay had the board performed its duty.

This court, after pointing out that the case of the plaintiff in error did not raise a federal question under the fourteenth amendment, said (page 171):

> "Furthermore, if the state could grant a total exemption it could grant a partial exemption, and if it had done so, *de facto*, through its officers, the petitioner cannot come here on an allegation that the officers acted as they did without the authority of the state. That, again, is for the state court to decide. The petitioner has no case under the Constitution of the United States, and nothing else is open. This is a writ of error to a state court, so that *questions under the state Constitution and laws cannot be considered*, as they might be on error to a subordinate court of the United States."

What this court undoubtedly intended to say in the last sentence above quoted was, that on writ of error to a state court violations of the Constitution and laws of the state, in reference to the levying of taxes could not be considered, but that such viola-

tions of the constitution and laws of the state might be considered by this court on error to a subordinate court of the United States, where such subordinate court had acquired jurisdiction by reason of other independent grounds of federal jurisdiction.

But where an original bill is filed in a Circuit Court of the United States, and the sole ground of Federal jurisdiction there alleged is based upon violations by the taxing officials of the state of the constitutions and laws of that state, such a subordinate court cannot acquire jurisdiction, unless the facts charged in the bill of complaint would be sufficient to give this court jurisdiction on writ of error to the highest court of the state.

The case just cited then is authority for the proposition that discrimination, inequality and partiality in the exercise of their duties, by the taxing officials of the state, although such conduct may be in violation of the constitution and the laws of that state, does not give a federal court jurisdiction under the Fourteenth Amendment. Where the constitution and the laws of a state guarantee to persons, and corporations within its jurisdiction, equality and uniformity of taxation, relief from inequality and discrimination in the administration of the taxing laws of the state, by the state officials must, in the absence of diversity of citizenship, be sought in state courts, and the decision of the highest court of the state is conclusive, and not subject to review as presenting a question arising under the constitution and the laws of the United States.

In *Coulter* v. *Louisville & N. R. Co.*, 196 U. S., 597, a bill was filed to enjoin the collection of a capital stock and franchise tax levied pursuant to an assessment made by the State Board of Equalization of the State of Kentucky. It was there al-

leged as in the case at bar that the property of the complainant railroad company was assessed at its full cash value, while the properties of other persons and corporations throughout the state were assessed at a sum not exceeding 70 per cent of their cash value.

This court there held that such an assessment did not infringe on the right guaranteed by the 14th Amendment of the Federal Constitution and said:

> "If it be a fact that the franchise of a Kentucky corporation is taxed at a different rate from the tangible property in the state, there can be no question that the state had power to tax it at a different rate, as far as the Constitution of the United States is concerned. (*Bells Gap R. Co.* v. *Pennsylvania,* 134 U. S., 232; 33 L. Ed., 892; 10 Sup. Ct. Rep., 533; *Merchants' & M. Nat. Bank* v. *Pennsylvania,* 167 U. S., 461, 464; 42 L. Ed., 236, 237; 17 Sup. Ct. Rep., 829; *Magoun* v. *Illinois Trust & Sav. Bank,* 170 U. S., 283, 295; 42 L. Ed., 1037, 1043; 18 Sup. Ct. Rep., 594.) It is doubtful, at least, if any further question should have been asked in this case. (*Missouri* v. *Dockery,* 191 U. S., 165.)"

In *Connolly* v. *Union Sewer Pipe Company,* 184 U. S., 540, certain decisions of this court wherein it was held that arbitrary classifications of property for taxing purposes, by the laws of the state, did not constitute a denial of the equal protection of the law, within the Fourteenth Amendment to the Constitution, were pressed upon the attention of this court, in a case involving the validity of a classification of occupations under the anti-trust laws of the State of Illinois. This court there pointed out the wide distinction between the arbitrary classifications of property for taxing purposes, and similar

classifications by the state in the exercise of its police powers, and said, concerning the previous decisions of this court in tax cases:

> "It is sufficient to say that those cases had reference to the taxing power of the state, and involved considerations that could not, in the nature of things, apply to a state enactment like the one involved in the present case."

In view of the authorities above quoted, it is plain that all of the alleged grievances charged against the State Board of Equalization by the appellee in its bill of complaint in this case, present merely a case where the taxing officers of the state, have, in violation of the Constitution and the laws of the State of Illinois, made unjust, unequal and unfair assessments. It may be true, that under proper circumstances, relief from such misconduct on the part of the said Board of Equalization could be had in the courts of the state. It is also true, that if a federal court should acquire jurisdiction of such a case by reason of the diversity of the citizenship of the parties, that such a court would also be charged with the duty of giving relief against violations of the constitution and the laws of the state, but it is equally clear that in a case where no ground of federal jurisdiction is presented, violations of the constitution and the laws of a state of the character charged in appellee's bill of complaint do not make out a case for the exercise of the original jurisdiction of a Circuit Court of the United States.

B.

Where the Constitution and the laws of a State are just and fair, and the sole grievance of which a party complains, is that the officers of the State, charged with executing those laws, have deprived

that party of his property, contrary to the Constitution and the laws of the State, and in violation of the terms thereof, no federal question is presented, for, under the above circumstances, it will be presumed that the State courts will give full relief against the illegal and unauthorized acts of the officers of the State.

We have already pointed out that inequality and discrimination in levying and collection of taxes by a state raises no question under the Fourteenth Amendment to the Federal Constitution, no matter whether that inequality and discrimination results directly from a law of the state, or indirectly by reason of the fact that state officials charged with the administration of a law, that is fair upon its face, violate the terms of that law. Should we, however, concede, for the sake of the argument, that if the grievances charged against the State Board of Equalization in this case had resulted from the fact that said board were administrating a *law of the state which provided for the making of unjust and discriminating assessments*, that a question would then arise, under the Fourteenth Amendment to the Constitution of the United States, it does not at all follow that such a question arises in a case where the excessive and discriminating assessment resulted wholly from the *acts of the subordinate officials of the state, acting contrary to, and in violation of, the terms of the laws of the state.* The constitution and the laws of the State of Illinois required the State Board of Equalization to assess the capital stock and franchises of the Appellee, at its "fair cash value," and to "equalize" the assessment made upon the capital stock and franchises of the appellee with the assessments made upon the properties of

other persons and corporations for the same year. If the State Board of Equalization, in violation of the constitution and the laws of the state, should fraudulently and corruptly make an unequal or an extortionate assessment, on the property of any person, or if such board should assess property not subject to taxation, or should assess property at a figure so exorbitant as to indicate either bad faith or a palpable omission of duty—under any of the above circumstances a court of equity of the State of Illinois would give full relief.

Illinois Central R. R. Co. v. *Hodges,* 113 Ill., 323.

New Haven Clock Co. v. *Kochersperger,* 175 Ill., 383.

Coxe Bros. Co. v. *Raymond,* 188 Ill., 571.

Siegfried v. *Raymond,* 190 Ill., 424.

The Fourteenth Amendment to the Constitution of the United States provides:

> "SECTION 1. No state shall make or enforce any law which shall abridge the privilege or immunities of citizens of the United States, nor shall any state deprive any person of life, liberty or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws."

Section 5 provides:

> "The Congress shall have power to enforce, by appropriate legislation, the provisions of this article."

That Fourteenth Amendment was adopted in 1868, shortly after the Civil War, and it was the special aim of that amendment to protect the colored race against hostile and unfair legislation by the Southern states. True, that amendment has been held by

this court to be general in its application and to apply in every case where the state deprives any person, whether white or black, or any corporation, of its property without due process of law. But it is equally well settled by the decisions of this court that the amendment in question was aimed exclusively at *state* action, and has never been held by this court to apply to the authorized acts of state officers, where those officers were acting contrary to and in violation of the laws of the state.

Where a state law is fair and just upon its face, and a state official, charged with the duty of administering that law, deprives a person of his property, contrary to such law, and in violation of the terms thereof, his action cannot be imputed to the state, for the presumption is that state courts will furnish ample relief against the unauthorized acts of its officers. Such a case presents no Federal question, at least, not until the aggrieved party has exhausted his remedies in the courts of the state. It is true the highest court of the state may place such a construction upon a state law, which is apparently fair and just upon its face, as to deprive a person of his property without due process of law, but in that case the law is what the highest court of the state by its final judgment has interpreted it to be. Where a state law, which is just and fair upon its face, is so interpreted by the highest tribunal of the state as to deprive a person of his property without due process of law, the deprivation of property is imputed to the state for the law. No such question can arise in the case at bar, for the Supreme Court of Illinois has held that it is the duty of the State Board of Equalization to assess the capital stock and franchises of corporations at its fair cash value, and to enforce the constitutional and statutory pro-

visions of the State of Illinois, guaranteeing uniformity and equality of taxation.

It would appear that when a state has enacted laws that are just and fair in every particular, and has provided courts that furnish full redress against unauthorized and forbidden acts of state officials, that then the state has done enough, and no necessity exists for the intervention of federal courts.

If a Circuit Court of the United States can assume jurisdiction of the grievances charged in the bill of complaint in this case, then the entire distinction between the act of the state and the unauthorized and forbidden acts of state officials will be abolished. If the moment that a state official charged with the duty of administering the law does an act in contravention of the state law, and in violation of his official duty, a Federal Court could assume jurisdiction, the result would be to transfer from the State to the Federal Courts every controversy, which grows out of an omission of duty on the part of the state officials.

In the case at bar it is charged that it was the duty of the State Board of Equalization to equalize the assessment made against the capital stock and franchises of the appellee, with the equalized assessed value placed upon the property of other persons and corporations, and it is claimed that the failure on the part of the said Board to make such an equalization constitutes a ground of federal jurisdiction. Again, it is charged that it was the duty of the State Board of Equalization to assess the property of the appellee at its fair cash value, but it is charged in appellee's bill of complaint that the property was assessed at an exorbitant price, and in excess of its fair cash value. Again, it is charged that it was the duty of the State Board of Equalization to exercise

its independent judgment in making the assessment complained of, but that the said Board followed erroneously and mistakenly what they believed to be the opinion of the circuit judge. If the failure of the state officers to follow the statutory and constitutional provisions of the State of Illinois in the particulars above enumerated, should be held to deny to the appellee privileges and immunity guaranteed by the federal constitution, it is difficult to conceive of any omission of duty on the part of the taxing officers of the state which would not raise a federal question, and if the amount in controversy was large enough, enable the aggrieved party to go into a Federal Court. It is the duty of a local assessor, to assess property at its fair cash value. Suppose that official, contrary to his duty, and in violation of the constitution and the laws, assesses property at a grossly exorbitant figure, can such a person invoke the original jurisdiction of a Circuit Court of the United States? Again, where an assessment has been honestly made, and a tax lawfully extended on said assessment by the proper officials of the State of Illinois, a second tax levied pursuant to a second assessment on the same property for the same year is void. Suppose a state official proceeds to collect such a void tax, can a Federal Court assume jurisdiction on the ground that a party, under the above circumstances, is deprived of his property without due process of law? The reason why a Federal Court has no jurisdiction in the case last supposed is plain. The levying of the second tax is done in contravention of the laws of the State of Illinois. The State Courts furnish adequate relief against such forbidden and unauthorized acts and no ground exists for the intervention of the National Courts.

Illustrations could be multiplied without number, showing the kind of controversies of which the Federal Courts could assume jurisdiction if the doctrine contended for by appellee's counsel should become the settled law of this court. The fact that the grievances here complained of are the acts of a State Board instead of a County Board does not make their act any more the act of the state. Whether an act is the act of the state, or the act of a subordinate official, charged with the administration of state laws, depends not on the *name* by which such an official is known, but by the *duties* which he is required to perform. The Supreme Court of Illinois held in the case of the *State Board of Equalization* v. *The People*, 191 Illinois, 528, that the State Board, when assessing the capital stock and franchises of corporations, acted in the capacity of original assessors.

But however that may be, all officials, whether municipal, county or state, who are charged with the duty under the laws of Illinois, of assessing, levying and collecting taxes, are the agents of the state, charged with the execution of the Revenue Laws of the state. A county assessor who fixes the fair cash value of a wagon, or a horse, is as much an agent of the state as the Board of Equalization, that is charged with the duty of assessing the capital stock and franchises of a ten million dollar corporation. All assessments, whether made by the County Assessors, or the State Board of Equalization are alike required to be equalized by the State Board, and by that Board certified to the Auditor, and by the Auditor certified to the County Clerk, and by him used as the basis for extending the taxes against the persons named. Nor does the fact that the property of twenty cor-

porations were here assessed at the same time, and by the same method, make any difference. The humblest citizen in the land, if the amount in controversy be sufficient, is as much entitled to the equal protection of the laws as the wealthiest corporation transacting business within the state.

An examination of the uniform construction placed by the court upon the Fourteenth Amendment sustains the accuracy of our contention.

The distinction between *state action,* that gives rise to federal jurisdiction within the meaning of the 14th Amendment, and the mere *unauthorized acts of state officers, when performed contrary to state law* which fails to give federal jurisdiction, has been frequently pointed out by this court when determining under what circumstances a criminal prosecution may be removed from a state court into a court of the United States by reason of the denial by the state of the rights and immunities guaranteed to accused persons under the 14th Amendment.

Section 641 of the Revised Statutes, enacted pursuant to Section 5 of the 14th Amendment, authorizing Congress to enforce the provisions of that amendment by appropriate legislation, gives the right of removing a criminal prosecution from a state into a federal court to any person,

> "who is denied, or cannot enforce, in the judicial tribunals of the State, or in the part of the State where such prosecution is pending, any right secured to him by any law providing for the equal civil rights of citizens of the United States, or of all persons within the jurisdiction of the United States."

It will be noted that the act above quoted was passed by Congress for the express purpose of pro-

viding a method of enforcing the provisions of Section 1, of the 14th Amendment, which prohibits a *state* from depriving any person of life, liberty, or property without due process of law, or denying to any person within its jurisdiction the equal protection of the laws.

It is obvious then, that when this court has defined what constitutes *state action* within the meaning of Section 641 above quoted, this court has necessarily determined what constitutes state action within the meaning of the 14th Amendment, for the act in question, insofar as it is constitutional and valid, is merely a means of enforcing those rights, and only those rights which are already guaranteed by the 14th Amendment.

This was the view taken by this court in *Strauder* v. *West Virginia,* 100 U. S., 303, when the construction of Section 641 first arose, for this court there said concerning that Section:

> "There is express authority to protect the rights and immunities referred to in the 14th Amendment, and to enforce observance of them by appropriate congressional legislation. And one very efficient and appropriate mode of extending such protection and securing to a party the enjoyment of the right or immunity, is a law providing for the removal of his case from a State court, in which the right is denied *by the state law,* into a federal court, where it will be upheld. This is an ordinary mode of protecting rights and immunities conferred by the Federal Constitution and laws."

Continuing, the court said:

> "This act puts in the form of a statute what had been substantially ordained by the constitutional amendment. It was a step towards enforcing the constitutional provisions. Section

641 was an advance step, fully warranted, we think, by the 5th Section of the 14th Amendment."

In the *Strauder* case, a statute of West Virginia provided that only male white persons should be eligible to serve as jurors in the courts of that state. The plaintiff in error there presented his petition to the state court, asking for the removal of the prosecution against him into a Circuit Court of the United States, upon the ground that the statute above referred to prevented him from enforcing in the judicial tribunals of the State of West Virginia, the rights secured to him by the 14th Amendment. The petition was denied. The plaintiff in error was convicted and brought his case into this court by writ of error to the Supreme Court of West Virginia.

This court there held that the *statute* above referred to was a denial by the state of the equal protection of the laws and said concerning the 14th Amendment:

> "It ordains that no State shall deprive any person of life, liberty or property, without due process of law, or deny to any person within its jurisdiction the equal protection of the laws. What is this but declaring that the *law in the States* shall be the same for the black as for the white; that all persons, whether colored or white, shall stand equal before *the law* of the States and, in regard to the colored race, for whose protection the Amendment was primarily designed, that no discrimination shall be made against them *by law* because of their color?"

Continuing, the court said:

> "The very fact that colored people are singled out and expressly denied by a *statute* all right

> to participate in the administration of the law, as jurors, because of their color, though they are citizens and may be in other respects fully qualified, is practically a brand upon them, affixed by the law."

In *Virginia* v. *Rives*, 100 U. S., 313, the opinion was handed down on the same day that the *Strauder* case was decided. There two colored men were jointly indicted for murder in a state court of Virginia, and placed on trial in a circuit court of that state. Before trial the defendants filed their petition for the removal of their case to the Circuit Court of the United States, setting up that under the laws of the State of Virginia all male citizens between the ages of 21 and 60, regardless of color, were eligible to serve as jurors, and that the officers of the state charged with the duty of selecting jurors fraudulently, wrongfully and in violation of the laws of the state had impaneled a venire for the trial of the defendants which was exclusively composed of white persons. The motion for a removal was granted and thereafter a petition for a mandamus was filed in this court to compel the United States marshal and the federal judge to return the prisoners to the jurisdiction of the state court.

This court there held that inasmuch as the *laws* of the State of Virginia gave the accused right of trial by an impartial jury, the fact that the officers of the state in violation of that statute discriminated against the accused, by selecting a jury composed exclusively of white persons, gave the Federal Court no jurisdiction, because the unauthorized act of the state officers performed in violation of the laws of the state was not action by the state within the 14th Amendment.

This court there said:

"When a statute of the state denies his right, or interposes a bar to his enforcing it, in the judicial tribunals, the presumption is fair that they will be controlled by it in their decisions; and in such a case a defendant may affirm on oath what is necessary for a removal. Such a case is clearly within the provisions of Sec. 641. But when a subordinate officer of the state, in violation of state law, undertakes to deprive an accused party of a right which the statute law accords to him, as in the case at bar, it can hardly be said that he is denied, or cannot enforce, 'in the judicial tribunals of the state,' the rights which belong to him. In such a case it ought to be presumed the court will redress the wrong. If the accused is deprived of the right, the final and practical denial will be in the judicial tribunal which tries the case, after the trial has commenced. *If, as in this case, the subordinate officer whose duty it is to select jurors fails to discharge that duty in the true spirit of the law; if he excludes all colored men solely because they are colored; or if the sheriff to whom a venire is given, composed of both white and colored citizens, neglects to summon the colored jurors only because they are colored; or if a clerk whose duty it is to take the twelve names from the box rejects all the colored jurors for the same reason—it can with no propriety be said the defendant's right is denied by the* STATE *and cannot be enforced in the judicial tribunals.* The court will collect the wrong, will quash the indictment or the panel, or, if not, the error will be corrected in a superior court. We cannot think such cases are within the provisions of Sec. 641. Denials of equal rights in the action of the judicial tribunals of the state are left to the revisory powers of this court."

The distinction between *state* action that gives

rise to federal jurisdiction, and the mere unauthorized act of state officers, contrary to state law, which fails to give federal jurisdiction, is clearly made by the decisions of this court in the *Strauder* and *Rives* cases, *supra*. In the *Strauder* case, it was held that where the legislature of the state excluded all colored persons from jury service, a case was presented where the state denied to a colored person the equal protection of the laws. In the *Rives* case, *supra*, it was held that where the legislature of the state guaranteed to a colored person accused of a criminal offense an impartial jury, but the officers whose duty it was to select the jury excluded all colored persons from the panel, in violation of the state law, the action of such officer was not action by the *state* within the meaning of the Fourteenth Amendment to the Federal Constitution.

The case at bar clearly comes within the principle laid down in the *Rives* case, for here no fault is found with the constitution, or the laws of the State of Illinois, but here, as in the *Rives* case, the sole grievance is that the officers of the state charged with the duty of executing a law that is fair and just, are acting contrary to the provisions of the state law.

In the *Civil Rights Cases*, 109 U. S., 3, this court, in declaring unconstitutional the Civil Rights Acts, passed pursuant to Section 5 of the Fourteenth Amendment, clearly pointed out the distinction we have contended for. It was there held that Congress had no power to legislate in such a way as to confer upon a federal court original jurisdiction in protecting life, liberty and property against the unauthorized acts of individuals, or that of state officers acting contrary to state laws, but it was there pointed out that the power of Congress to legislate

under Section 5 of the Fourteenth Amendment was limited to giving relief in cases where the *state*, by its legislature or by the decision of its highest courts, denied to any person within its jurisdiction the privileges and immunities guaranteed by the Fourteenth Amendment. Speaking on that subject, the court, in an opinion by Mr. Justice Bradley, said:

> "Such legislation cannot properly cover the whole domain of rights appertaining to life, liberty and property, defining them and providing for their vindication. That would be to establish a code of municipal law regulative of all private rights between man and man in society. It would be to make Congress take the place of the state legislatures and to supersede them. It is absurd to affirm that, because the rights of life, liberty and property (which include all civil rights that men have) are by the amendment sought to be protected against invasion on the part of the *state* without due process of law, Congress may therefore provide due process of law for the vindication in every case; and that, because the denial by a state to any persons, of the equal protection of the laws, is prohibited by the amendment, therefore, Congress may establish laws for their equal protection. In fine, the legislation which Congress is authorized to adopt in this behalf is not general legislation upon the rights of a citizen, but corrective legislation, that is, such as may be necessary and proper for counteracting such *laws as the states* may adopt or enforce, and which, by the amendment, they are prohibited from making or enforcing, or such acts and proceedings as *states* may commit or take, and which, by the amendment, they are prohibited from committing or taking." * * *

An examination of the reasons upon which the *Civil Rights* cases are decided will demonstrate con-

clusively that the Circuit Court was without jurisdiction in the case at bar.

Suppose Congress had passed an act pursuant to Section 5 of the Fourteenth Amendment providing, that all persons and corporations within a state should be subjected under substantially the same circumstances to an equal and uniform rate of taxation; it is clear that such legislation would be unconstitutional within the authority of the *Civil Rights* cases. It is equally clear that so long as a state, by its legislature, has guaranteed to persons and corporations within its jurisdiction equality and uniformity of taxation no violation of the Fourteenth Amendment has occurred, simply because the state officers charged with the duty of administering the state law have failed to do their duty.

In the recent case of *Kentucky* v. *Powers*, 201 U. S., 1, Justice Harlan, after first pointing out that Section 641, merely put in the form of a statute what had already been ordained by the Fourteenth Amendment, entered into an exhaustive review of the prior decisions of this court where the construction of Section 641 was involved. This court throughout that entire opinion constantly emphasizes the fact that it was *state* action as distinguished from the *unauthorized acts of state officers*, which was prohibited by the Fourteenth Amendment, and by Section 641 passed pursuant thereto.

In the *Powers* case, this court said (quoting from *Gibson* v. *Mississippi*, 162 U. S., 565-581):

> "We, therefore, held in *Neal* v. *Delaware* that Congress had not authorized a *removal of the prosecution from the State Court*, where jury commissioners or other subordinate officers had, *without authority derived from the Constitu-*

> *tion and laws of the State,* excluded colored citizens from juries because of their race."

This court, after pointing out the fact that the claim was made by respondents in the *Powers* case, that there was in effect a conspiracy between the court, the jury commissioners, the prosecuting attorney, and all persons charged with the administration of the laws of the State of Kentucky, to deprive the accused of the right of a trial by an impartial jury, and after indicating that such a claim was sustained by the record said (page 35):

> "Taking, then, the facts to be as represented in the petition for removal, still the remedy of the accused was not to have prosecution removed into the Federal Court, that court not being authorized to take cognizance of the case upon removal from the State Court. It is not contended, as it could not be, that *the Constitution and laws of Kentucky* deny to the accused any rights secured to him by the Constitution of the United States or by any act of Congress."

Surely if a deliberate conspiracy on the part of all persons charged with the administration of the criminal laws of a state, to convict an innocent man, and to deprive him of his right of trial by jury is not and cannot be imputed to the state, it is folly to argue that the alleged illegal and unauthorized act of the State Board of Equalization in the case at bar, constitutes State action within the meaning of the very same amendment.

The right of a person charged in a State Court with a criminal offense, to have his case removed into a Federal Court, rests then upon the provisions of Section 1 of the Fourteenth Amendment to the Federal Constitution. The right of the appellee in this case to commence an original suit in a Circuit

Court of the United States, depends upon the same section of the same instrument. It follows as a necessary corollary that that which constitutes state action in the one case must be construed to be state action in the other.

The decision of this Court in Barney v. City of New York, 193 U. S., 430, is of controlling importance in this case and requires that appellee's bill of complaint be dismissed for want of jurisdiction.

In the *Barney* case a bill was filed in the Circuit Court of the United States for the Southern District of New York, seeking to enjoin the City of New York, the Board of Rapid Transit Commissioners of said city, and certain contractors from proceeding with the construction of an underground railway adjacent to the premises of the complainant. It was there alleged that said railway was being built twenty-seven feet nearer to the premises of complainant than was authorized by the routes and plans which had previously been approved, in accordance with the laws of the State of New York, and that said Board, contrary to the laws of the State of New York, had prepared plans and authorized said contractors to build said railway at a place unauthorized by law, and that said contractors were about to construct the same. The Circuit Court dismissed said bill for want of jurisdiction, which judgment was affirmed by this court. Justice Fuller, in delivering the unanimous opinion of this court, said (page 437):

> "The jurisdiction of the Circuit Court was invoked upon the ground that, by the tunnel construction sought to be enjoined, complainant was deprived of his property without due process of law, in violation of the fourteenth amendment. But that amendment prohibits deprivation by a *State*, and here the bill alleged

that what was done, was *without authority and illegal.* * * * Thus, the bill on its face proceeded on the theory that the construction of the easterly tunnel section was not only not authorized, but was forbidden by the legislation, and hence was not action by the State of New York within the intent and meaning of the Fourteenth Amendment, and the Circuit Court was right in dismissing it for want of jurisdiction.

"Controversies over *violations of the laws of New York* are controversies to be dealt with by the *courts of the State.* Complainant's grievance was that the law of the State had been broken, and not a grievance inflicted by action of the legislative or executive or judicial department of the State; and the principle is that *it is for the State courts* to remedy acts *of State officers done* without *the authority of, or contrary to State law.* (*Missouri* v. *Dockery,* 191 U. S., 165, ante 133; 24 Sup. Ct. Rep., 53; *Civil Rights Cases,* 109 U. S., 3; 27 Led., 835; 3 Sup. Ct. Rep., 18; *Virginia* v. *Rives,* 100 U. S., 313; 25 Led., 667.)"

This court, after quoting language of similar import from *Virginia* v. *Rives* and the *Civil Rights* cases, said:

"And see *Manhattan R. Co.* v. *New York,* 18 Federal, 195; *Kiernan* v. *Multnomah County,* 95 Fed., 849; *Re Storti,* 109 Fed., 807."

An examination of the Federal cases above quoted and cited with approval by this court in the *Barney* case, demonstrates that appellee's bill of complaint does not present a case cognizable by a Circuit Court of the United States.

The case of *Manhattan Railway Co.* v. *City of New York, supra,* is especially pertinent. There a bill was filed by the Railway Company to enjoin the collection of taxes assessed by the commissioners

of the City of New York upon the property of said company. It was there charged that the complainant was taxed for state purposes in cases where individuals were not so taxed, that a discrimination was made "against the complainants and in favor of other corporations by the State of New York," and

> "that the state, by the laws under which the assessing officers have acted, unlawfully discriminates between the complainants and individuals, and subjects the property of the complainants, for the purposes of taxation, to an unequal share of the public burdens and abridges the privileges and immunities of the complainants as citizens of the United States, depriving them of their property without due process of law and denying to them the equal protection of the laws, contrary to the Constitution of the United States."

The court held that even though all of the above contentions were true, yet a Federal Court was without jurisdiction because full relief could be had in the State courts. The court, in dismissing the bill of complaint for want of jurisdiction, said:

> *"If the authorities of the City of New York are endeavoring to enforce the collection of taxes against the complainants which have not been assessed in conformity with the statutes of the state, if the taxing authorities, under color of law, are proceeding illegally, their action cannot be imputed to the state, and the constitutional provision need not be invoked and does not operate; and the complainants can obtain ample redress under the laws of the state."*

In the *Kiernan* case, *supra*, the jurisdiction of the Circuit Court was sought to be invoked upon the ground that the collection of certain taxes by the

defendant was not authorized by the laws of the State of Oregon, in pursuance of which the sheriff was acting, and that to permit the seizure and sale of complainant's property under those proceedings would be a violation of the Fourteenth Amendment. The court declined to assume jurisdiction, and said:

> "The questions sought to be presented in this case related to the interpretation to be given a law of the state, and the complaint is that this law is being interpreted and misapplied, to the injury of the plaintiff, in his rights of property. In all such cases, where there is not the requisite diverse citizenship and amount in controversy to give the court jurisdiction, the remedy for the injuries complained of is in the state courts."

In *In re Storti, supra*, an application was made to the Circuit Court of the United States in a petition for a writ of habeas corpus upon the ground that the petitioner was deprived of his liberty without due process of law, in violation of the Fourteenth Amendment of the Federal Constitution, the particular wrong complained of being that the petitioner was deprived of his liberty by a state officer in violation of a state law. The application for writ of habeas corpus was denied by the court (that judgment was affirmed by the Supreme Court of the United States, 183 U. S., 138), and the court there said:

> "Ordinarily the provision of the Fourteenth Amendment relating to due process of law does not apply where the legislature of the state has performed its duty by providing for proceedings which answer the constitutional requirement and where the fault is either with the court or officer."

All of the above cases, cited with approval by this court in the *Barney* case, make it plain that violations of state law, under circumstances where full relief may be had in state courts, do not give any right of relief in a Federal Court by virtue of the Fourteenth Amendment.

St. Louis, I. M. & S. Ry. Co. v. *Davis*, 132 Fed., 629, is a case directly in point. The constitution and the statutes of the State of Arkansas, like our own, make provisions for equality and uniformity of taxation.

It was there alleged that the state board charged with the duty of assessing the property of the complainant, had, in violation of the constitution and statutes of the State of Arkansas,

> "assessed the property of complainant practically at its full value while all other property in the State of Arkansas is only assessed at about thirty per cent of its actual value;"

also that the State Board had assessed property of complainant not subject to taxation in the State of Arkansas. The court held that the above allegations did not show that complainants were denied any rights and privileges guaranteed by the Fourteenth Amendment and the court therefore held that no jurisdiction existed in the Federal Court to enjoin the collection of the assessment complained of. The court, after an exhaustive examination of the decisions of this court, including that of *Barney* v. *City of New York, supra*, said:

> "Counsel for complainant have referred the court to a number of able decisions rendered by Circuit Courts sustaining their contentions; but, in view of this last decision of the Supreme Court of the United States, they cannot be considered as authorities by this court. *If the con-*

tention of complainant that whenever a person acting as an officer of the state does any act in violation of the laws of the state, which if not prevented by the courts would result in the unlawful taking of property, brings the case within the jurisdiction of the national courts, regardless of a diversity of citizenship, be sustained, it would practically result in filling the dockets of those courts with cases of every conceivable nature.

"The Constitution of the State of Arkansas prohibits any county or city from levying a tax exceeding five mills. A levy by the officers of either of these agencies of the state of a higher tax would, of course, be void; but would that fact justify the interposition of a national court, if there is no diversity of citizenship? An execution in the hands of a sheriff, issued on a judgment of a state court which acted entirely without jurisdiction, is an absolute nullity; but would that fact confer jurisdiction on a Federal Court to prevent the sheriff from making a seizure under the void execution, when there is no diversity of citizenship, or would not the party be required to apply for relief to a court of the state? The constitution and laws of the State of Arkansas require property to be assessed for taxation by a county assessor. Would the fact that the county clerk, in violation of the laws of the state, places property on the tax books on an assessment made by himself, and not the assessor, enable the owner to invoke the jurisdiction of this court, upon the sole ground that, the action of the clerk being in violation of the laws of the state, and therefore void, he would be deprived of his property without due process of law? Many other illustrations of this kind could be mentioned, but they would serve no useful purpose. In the opinion of the court, the acts of the officers charged by law with the assessment, levy, or collection of taxes, done in direct violation of the laws of the state, are not the actions of the state, and the juris-

diction of the national courts cannot be invoked upon the ground that the unlawful acts of the officers are a violation of the Fourteenth Amendment. *The courts of the state can grant ample redress, and this court will not assume that they will refuse to give due effect to the constitution and laws of the state, whose officers they are.*

"Being clearly of the opinion that the allegations in the bill are not sufficient to confer jurisdiction on this court, the demurrer must be sustained, and the bill dismissed for want of jurisdiction."

The case of *Coulter* v. *Louisville & N. R. Co.*, 196 U. S., 599, is also directly in point. Justice Holmes thus stated the facts in that case:

"This is a bill brought by the railroad company, appellee, a Kentucky corporation, against citizens of Kentucky, the members of the State Board of Valuation and Assessment, and, respectively, auditor of public accounts, treasurer, and secretary of state. The only ground of jurisdiction alleged is that, under the tax laws of the State of Kentucky, as administered by its executive officers, the railroad company is deprived of the equal protection of the laws, contrary to the Fourteenth Amendment. The constitution of the state requires all property not exempted from taxation to be assessed at its fair cash value; but the bill alleges that the county assessors uniformly assess the property assessed by them, which is the great body of tangible property in the state, below its cash value. It alleges that, in like manner, the Board of equalization equalizes the county assessments at a percentage not above 80 per cent of the fair cash value of the property taxed. On the other hand, the defendants, who assess the franchise tax on the railroad company, are alleged to have assessed the company's property in Kentucky at its full value, viz., $33,788,724.-

50, for the year 1902, and then, deducting the tangible property locally taxed, $23,103,825, to have made the taxable franchise $10,774,899.50. Whereas, if 80 per cent of the value of the company's property had been taken, then, deducting as before, the taxable franchise would be only a little over $4,000,000."

This court, after pointing out that the allegations of the bill of complaint were not sustained by the evidence, went on to say, that even the bill itself did not make a case cognizable by a Circuit Court of the United States. This court there said, page 608, citing many decisions of this court in support thereof:

> "If it be a fact that the franchise of a Kentucky corporation is taxed at a different rate from the tangible property in the State, there can be no question that the State had power to tax it at a different rate, so far as the Constitution of the United States is concerned."

And further:

> "Looking first at the assessment of the franchise, there is no such certainty that it was made on a different scale of values from that adopted elsewhere as would warrant an attack upon it under the 14th Amendment, even if otherwise that attack could be maintained. But the supposed infringement of the 14th Amendment is the only ground on which the railroad Company could come into the Circuit Court, and if that ground fails, and obviously fails, the court should be very cautious, at least, in interfering with the State's administration of its taxes upon other considerations which would not have given it jurisdiction."

Again, this court, after pointing out in the last paragraph of the opinion, page 610, that the allega-

tions of complainant's bill had not been established by the evidence, concluded as follows:

> "Finally recalling once more that we are dealing with a case that properly was *not cognizable in the Circuit Court*, we are of opinion that the bill must be dismissed."

It will be noted that in the *Coulter* case, the bill specifically alleged that the taxable franchises were assessed at $10,774,899.50, whereas, if the franchises had been assessed at the same rate, as was the other property of the State, the tax would have been only about $4,000,000.00, and also that the Constitution of the State of Kentucky, required the franchises of appellee to be taxed at the same rate as the tangible property. The *Coulter* case then presented a striking illustration of an instance where the State officers charged with the duty of making a fair and equal assessment, did contrary to the Constitution, making an excessive, unequal and discriminating assessment. But this court held that the above allegations did not make out a case cognizable in a Circuit Court of the United States, because the grievances there complained of were violations of the Constitution of the State of Kentucky and not violations of the Fourteenth Amendment to the Federal Constituion.

The case of *Owensboro Water Works Company* v. *Owensboro*, 200 U. S., 45, is also directly in point. There the bill of complaint charged that a municipal corporation authorized under the laws of the State of Kentucky to levy and collect taxes for a specific purpose, was proceeding to divert those taxes to a purpose unauthorized by the laws of the state, which diversion would increase the burden of complainant's taxes, and subject complainant to double taxation. This court held that no federal

question was presented by such a bill and said (page 45):

> "But no right involved in the present case has its origin in, or is secured by the Constitution of the United States. It is not contended that the legislative enactments, by the authority of which the city intends to establish and maintain a system of waterworks, are inconsistent either with the Constitution of Kentucky or the Constintion of the United States. The plaintiff, however, complains that the defendant city has not properly discharged its duties under the *laws of the state*. For the purposes of the present discussion, let this be taken as true; still, maladministration of its local affairs by a city's constituted authorities cannot rightfully concern the national government, unless it involves the infringement of some Federal right. If the city authorities have received funds from taxation which ought strictly to have been applied to take up or cancel the bonds of the city, but have been used for other municipal purposes, and if, by reason of such misapplication of those funds, taxation may ultimately come upon the people for an amount beyond what the legislature originally intended—if nothing more can be said—the remedy must be found in the courts and tribunals of the state, and not in the Federal courts of original jurisdiction, where the controversy is wholly, as it is here, between citizens of the same state. When a Federal court acquires jurisdiction of a controversy by reason of the diverse citizenship of the parties, then it may dispose of all the issues in the case, determining the rights of parties under the same rules or principles that control when the case is in the state court. But, as between citizens of the same state, the Federal court may not interfere to compel municipal corporations or other like state instrumentalities to keep *within the limits of the power*

conferred upon them by the state, unless such interference is necessary for the protection of a Federal right."

Carfer v. *Caldwell,* 200 U. S., 293, was an appeal from an order of the Circuit Court in a habeas corpus case, discharging Caldwell, a citizen of West Virginia, from the custody of Carfer, the sheriff of Wood county, West Virginia. Said sheriff held said Caldwell in pursuance of an order of attachment issued by a committee of the House of Delegates of the Legislature of West Virginia, said committee acting pursuant to resolution of said House. This court, in reversing the judgment of the Circuit Court said (page 296):

> "The Circuit Court held that the house of delegates had no power, under the Constitution of West Virginia, to appoint a committee for the purpose of investigating the matters set forth in the resolution, and to clothe it with power to sit and compel the attendance of witnesses in vacation, but took jurisdiction, nevertheless, on the ground that the condition was so 'extraordinary' as to 'warrant the intervention of the first court, State or Federal, applied to.' This view ignored the settled law that a Circuit Court of the United States has no jurisdiction to issue the writ to release a citizen from imprisonment by another citizen of the same state, merely because the imprisonment is wrongful. The committee was acting under a resolution of the house of delegates, and in pursuance of a law of the state, giving power to committees of either house, authorized to sit during recess, to enforce obedience to summonses issued to them; *and if they did not have the power they assumed to exercise, it was because the resolution or law, or both, was or were repugnant to the State Constitution, and the courts of the*

state are the appropriate tribunals for the vindication of the State Constitution and laws.

"The Circuit Court was of opinion that the subject which the committee was appointed to investigate was not within the jurisdiction of the legislature, as defined by Article 5 of the Constitution of West Virginia, declaring that 'the legislature, executive, and judicial departments shall be separate and distinct, so that neither shall exercise the powers properly belonging to either of the others.' *But that objection does not 'present any question under the due process of law clause of the Fourteenth Amendment.'*"

If a person deprived of his *liberty* in violation of the Constitution and the laws of a state is denied relief in a Federal Court, under the Fourteenth Amendment, because "the courts of the state are the appropriate tribunals for the vindication of the State Constitution and laws," how can it be argued that a person who is deprived of his *property*, contrary to the Constitution and the laws of the state, may, in reliance upon the very same amendment, ignore the "courts of the state," which will give him adequate relief and invoke in the first instance the original jurisdiction of the national courts?

Viewed in any aspect, there is no theory consistent with the previous adjudications of this court upon which the Circuit Court could have assumed jurisdiction under the allegations of appellee's bill of complaint.

C.

Equally untenable is the claim in appellee's bill of complaint, that under the circumstances there described the appellee was deprived of its property without due process of law, because it had no opportunity to be heard at the time the assessment complained of was levied against it.

The Revenue Act of the State of Illinois, (Section 32, page 1400, Hurd's R. S. for 1899), provides that corporations doing business of the character that the appellee was pursuing, should make out and deliver to the assessors a sworn statement, showing, among other things, the amount of the capital stock paid up by said corporation, "the market value, or if no market value, then the actual value of the shares of stock." And, further, Section 33, that the assessors should extend said statements in the form of schedules, and that such statements of said corporation and such schedules made by said assessors should be, by said assessors, turned over to the County Clerk, and by him forwarded to the State Auditor, and that the said auditor should place said statements and said schedules before the State Board of Equalization at its annual meeting. And, further, Section 32, that in case any corporation failed or refused to make such a statement, it shall be the duty of the assessor to make up a schedule as to such corporation from "the best information which he can obtain." It will be noted that the foregoing statutory provisions provide a method by which the corporations therein named may present to the State Board of Equalization their version as to the value of their capital stock and franchises. Again, the sessions of the State Board of Equalization are public, and the record in this case shows that the attorneys and representatives of the ap-

pellee corporation were present and had an opportunity to be heard when the assessment of 1900 was under consideration by said board.

There is no allegation in appellee's bill of complaint that appellee made out sworn statement and delivered the same to the assessors in compliance with this law, and no allegation that the appellee requested a hearing from the State Board of Equalization, or that the appellee was denied such a hearing at the time the assessment here complained of was made.

It is true that the appellee corporations wilfully and wrongfully neglected to furnish information to the State Board of Equalization in their statements in reference to the market value of their shares of stock, but if any injustice resulted to the appellees in that regard, it surely cannot be charged against the State Board of Equalization. Proceedings by which taxes have been extended on assessments made in the manner disclosed by this record, have been repeatedly held to constitute due process of law by this court.

In *State Railroad Tax Cases*, 92 U. S., 575, it was contended that an assessment made by the State Board of Equalization of the State of Illinois did not constitute due process of law, because no notice was given to the corporations assessed, and because they had no opportunity to be heard. This court, in denying the efficacy of that contention, said:

> "This board has its time of sitting fixed by law. Its sessions are not secret. No obstruction exists to the appearance of any one before it to assert a right, or redress a wrong; and, in the business of assessing taxes, this is all that can be reasonably asked."

In *Pittsburg, C. C. & St. L. R. Co.* v. *Backus*,

154 U. S., 421-25, this court said, concerning an assessment made upon the property of the Railroad Company by the Indiana State Board of Tax Commissioners (p. 425):

> "It is contended specifically that the act fails of due process of law respecting the assessment, in that it does not require notice by the State Board at any time before the assessments are made final, and several authorities are cited in support of the proposition that it is essential to the validity of any proceeding by which the property of the individual is taken that notice must be given at some time and in some form, before the final adjudication. But the difficulty with his argument is that it has no foundation in fact. The Statute names the time and place for the meeting of the assessing board, and that is sufficient in tax proceedings; personal notice is unnecessary."

In the recent case of *Michigan C. R. Co.* v. *Powers*, 201 U. S., 245, 301, this court said, concerning an assessment, which it was there claimed did not constitute due process of law, because the Railroad Company was not given an opportunity to contest its fairness (p. 301):

> "While there may be no provision for an equalization of railroad with other property, it will be perceived that the Statute names the time and place for the sessions of the assessing board, gives to any person or company interested the right to be heard, and also authorizes the board to correct the valuation. So that it cannot be objected that the railroad companies are precluded from a full hearing on the matter of valuation; and, as has heretofore been said by this court, one hearing is sufficient to constitute due process."

This court has often had occasion to pass upon the

question as to what constitutes due process of law, and the doctrine has been frequently reiterated that even the *ex-parte* orders and directions of the executive and ministerial departments of the Federal government affecting property and property rights, constitute due process of law if the party aggrieved may go into a court of equity and obtain redress against the unauthorized or wrongful acts of such officers.

In *Public Clearing House* v. *Coyne*, 194 U. S., 497, the validity of an order issued by the Postmaster General denying the appellant the use of the United States mails was under consideration. This court there held that such an executive order did not deprive the appellant of his property without due process of law, because courts of equity furnished an adequate remedy in the event that the Postmaster General exceeded his authority or exercised that authority fraudulently and corruptly.

Speaking on that subject the court said, page 509:

> "Even in the recent case of the *American School of Magnetic Healing* v. *McAnnulty*, 187 U. S., 94; 47 L. ed., 90; 23 Sup. Ct. Rep., 33, the constitutionality of the law authorizing seizures of this kind by the Postmaster General was assumed, if not actually decided, the only reservation being that the person injured may *apply to the courts for redress* in case the Postmaster General has exceeded his authority, or his action is palpably wrong."

Courts of equity in the State of Illinois furnish complete redress in case the State Board of Equalization "has exceeded its authority," or if its action is palpably wrong.

Illinois Central Railroad Company v. *Hodges*, 113 Ill., 323.

New Haven Clock Company v. *Kochersperger,* 175 Ill., 383.
Coxe Bros. Co. v. *Raymond,* 188 Ill., 571.
Siegfried v. *Raymond,* 190 Ill., 424.

Surely where the constitution and the laws of the State of Illinois and the courts created pursuant thereto furnish full and adequate relief against all the just grievances of which a party has a right to complain, that party cannot insist that the *state* deprives him of his property without due process of law.

II.

THERE IS NO COMPETENT EVIDENCE IN THIS RECORD TENDING TO SUSTAIN THE MATERIAL ALLEGATIONS OF APPELLEE'S BILL OF COMPLAINT WITH REFERENCE TO THE ASSESSMENT COMPLAINED OF.

A vast amount of evidence was taken before the master in behalf of the appellee, but an examination of this record will disclose that all of that evidence, in so far as it was material to the issues in this case, may be classified under six subdivisions, as follows:

1. The testimony of four out of twenty of the members of the State Board of Equalization, who made the assessments complained of in reference to the operation of their own minds at the time the assessments were made.

2. Certain extracts from the reports of the Railroad and Warehouse Commissioners for the State of Illinois and the reports of the Board of Agriculture of the State of Illinois.

3. Certain extracts from the records of the Union Stock Yards and Transit Company, in reference to the value of horses, cattle and hogs within the State of Illinois, and certain extracts from Brown's Direc-

tory of American Gas Companies, both of said publications being private compilations.

4. A statement purporting to show the number of horses, cattle and hogs in the State of Illinois, returned for taxation in the year 1900 by the local assessors; as compared with the number purported to be shown in the state by the United States Census Report of 1890; and certain statements purporting to show the aggregate assessments and the value of the property assessed in the State of Illinois and Cook County from 1873 to 1900.

5. The records of the proceedings of the State Board of Equalization showing the assessments made on the capital stock and franchises of the corporations above named during the years 1899, 1900 and 1901, and contain extracts from the records of said board for prior years.

6. The testimony of the officers and agents of the complainant corporations in reference to the amounts and values of their properties in the City of Chicago on the 1st day of April, 1900.

We will examine each of the items of evidence in the order above enumerated.

A.

The testimony of the individual members of the State Board of Equalization in reference to the operation of their minds at the time they made the assessment complained of was incompetent, and should have been excluded by the Circuit Court.

The bill of complaint in this case charges:

First, that the members of the State Board of Equalization were acting under the coercion and influence of the writ of mandamus of the Circuit Court of the state, and without the exercise of their own

judgment and discretion, when they made the assessment complained of.

Second, that the State Board of Equalization in making the assessment complained of on the 22nd of November, 1901, did not equalize the assessment of the appellee and the other corporations above named, with the assessments, made upon the property of other persons, and corporations within the state for the same year.

Third, that the assessment of the capital stock and franchise of appellee was excessive and unreasonable.

There was no evidence tending in the slightest degree to sustain the above material allegations of appellee's bill of complaint, except the testimony of the four individual members of the State Board, given before the master. If that evidence was incompetent and inadmissible, it necessarily follows that there is no competent evidence in this record, tending to sustain the decree of the Circuit Court, and hence that decree will have to be reversed regardless of all other questions in this case.

The Circuit Court stated in its opinion (Transcript 1283) that

> "the reassessments complained of did not, in my opinion, express the real judgment of the State Board as an independent tribunal, and were therefore in effect, fictitious judgments, for the impeachment of which somewhere the law holds out opportunity to the parties injured; and the direct evidence of the members of the State Board called as witnesses, sustains this view."

The Circuit Court also regarded this evidence as tending to make out a violation of the Fourteenth

Amendment, for the court further stated (Trans., 1284):

> "Judgments affected by fraud or fear, however solemnly entered, are as nothing when weighed by the constitutional guaranties thrown around liberty and property."

The records of the Circuit Court of Sangamon County and that of the State Board of Equalization, directly disprove each and all of the above claims made in appellee's bill of complaint.

There is not the slightest evidence in the record of the Circuit Court of Sangamon County, tending to sustain the contention that the State Board of Equalization was acting under an improper coercive influence of that court, when it made the assessments here complained of. There was nothing in the writ of mandamus, that commanded the State Board of Equalization not to equalize the value of the capital stock and franchise of Appellee, with the values of the property of other persons and corporations. There was nothing in that writ that commanded said board to value Appellee's property in any other way, or upon any other basis than the property of other persons and corporations were valued by the same board during the same year. There was nothing in that writ that directed said board as to what value should be placed upon the property of the appellee, and the other corporations above named. The writ (Trans., 174) merely commanded the State Board of Equalization to "value and assess the capital stock, including the franchises of said corporations and companies herein named, to-wit (here follows an enumeration of the corporations) as of the first day of April, A. D. 1900, in the manner provided by law, so as to ascertain and determine respectively as to each of said

corporations, the fair cash value of its capital stock including the franchise, over and above the assessed value of the tangible property of such corporation for the year 1900." The writ further commanded the said board, that in arriving at said assessments, it should "ascertain and take into consideration, among other things, as to each such corporation, as the same was on the first day of April, 1900, the market value, or if no market value, then the fair cash value of its shares of stock and the total amount of all its indebtedness except the indebtedness for current expenses, excluding from such expenses the amount paid for purchase or improvement of property and the assessed or equalized valuation of all tangible property of said corporations, respectively, on said April 1st, 1900."

The State Board of Equalization made the assessment of appellee's capital stock and franchises in strict accordance with the constitution and laws of the State of Illinois, and in exactly the same way that the evidence in this record shows the property of other persons and corporations within the state were assessed for the same year.

It is claimed that certain remarks made by Judge Thompson in the hearing of some of the members of the State Board of Equalization were misunderstood by such members (Trans., 204). The remarks themselves, are ambiguous, and they merely told the board that the board should make the assessment in accordance with the writ, and that the writ is explicit enough. Here, again, there is not the slightest room for the contention, so far as the face of the record is concerned, that the court in any wise invaded the discretion of the board.

The record of the State Board of Equalization utterly fails to sustain the contention that the prop-

erties of the appellee and the other corporations above named were not assessed at their fair cash value, or that the assessments upon them were not equalized with the assessments made on other property at the same time.

The report of the Committee on Assessment of Capital stock of corporations, which was approved by the unanimous vote of the board, recites (Trans., 244) that "it has valued and assessed the capital stock, including the franchise, of each of the corporations and companies hereinafter named in Schedule B, as to the values on the first day of April, A. D. 1900, in the manner provided by law, so as to ascertain and determine, respectively, as to each of said corporations the *fair cash value* of its capital stock, including the franchise, over and above the assessed value of tangible property of such corporations for the year 1900."

It will be noted that the foregoing report of the State Board of Equalization expressly recites that the property in question was assessed at its "*fair cash value*," and in the exercise of the judgment and discretion of the board. Then follows a schedule giving the names of the corporations and the amount of the assessments and the manner in which it was arrived at. This schedule (Trans., 246) recites: "Showing the valuation and assessment by the State Board of Equalization upon the capital stock, including the franchise, of the companies and associations hereinafter named, incorporated under the laws of the State of Illinois, other than railway companies, for the year 1900, being the *equalized* value of the capital stock, including the franchise, over and above the assessed value, as equalized, of the tangible property of such corporations assessed by local assessors."

It will be noted that the record of the State Board of Equalization expressly recites that the assessment is "the *equalized value* of the capital stock, including the franchise, over and above the assessed value."

The record further shows (Trans., 247) that the above report of the Committee on Assessments of Capital Stock of Corporations was adopted by the board, twenty votes being cast in the affirmative and none in the negative. The board itself was composed of twenty-two members (Trans., 1047), two being absent on the day in question.

The State Board of Equalization duly certified the net assessments so returned to the Auditor of Public Accounts, and the auditor transmitted said assessment to the County Clerk of Cook County, and that said clerk extended the taxes against the corporations above named, pursuant to said assessments. After all of this had been done, and after the State Board of Equalization had adjourned, and their official acts and proceedings had passed beyond their control, the bill in this case was filed. Four out of the twenty members of said board who levied said assessments, were called to the witness stand, and over the objection of defendant's counsel, those members were permitted to contradict and impeach the official record of the State Board. The Circuit Court held that the testimony of four of the above members, given before the master in this case, overcame the solemn record of the board, which had been filed away, and which had received the approval of every member of the board then present.

Samuel M. Barnes, one of the members of said board, was called to the stand (Trans., 103), and when said Barnes was interrogated in reference to the operation of his own mind at the time he made

the assessment complained of, the defendants' counsel objected to such an inquiry on the ground, among others (Trans., 109),

> "that it seeks to impeach the official record of the State Board of Equalization by the oral testimony of a member of that board, and for the further reason that the method employed by the board in making its assessment cannot be inquired into to impeach such assessment."

It was stipulated that the above objection should stand as though it had been made to all questions thereafter put, and the evidence was taken by the master subject to said objection. Similar objections and stipulations were made with reference to the testimony of the other members.

Mr. Barnes then testified as follows (Trans., 108): I think it was either Mr. Schaefer or Mr. Hopkins, of the committee on the board, who was over there listening to the report, who told me what the court said. The impression I got was very strongly fixed in my mind and it was that his attitude was intensely hostile to the board, and I was told by those who heard him that it was in the shape of a "roast" from start to finish as far as his manner was concerned. (Trans., 109.) The re-assessment, as we determined it, was made with a view to satisfying the court—the order of the court. We made no deduction, if I remember rightly, on account that all of these companies but two had been assessed upon their capital stock. We didn't take into consideration the fact, if it was a fact, that other property in the state had not been assessed at a maximum more than seventy per cent of its value. (Trans., 113.) Our desire in making this re-assessment was in order to satisfy the Circuit Court of Sangamon County, because it was not my judgment that it was

a proper assessment. The general idea seemed to be with the committee on capital stock that the action of the committee was dictated by the court.

Three other members of said board, Frank P. Martin (Trans., 130), John S. Cruttenden (Trans., 142), Louis D. Hirsheimer (Trans., 155), testified over the objection of defendants' counsel to matters of substantially the same import.

When this matter came on for a final hearing before the circuit judge, he overruled each and all of the foregoing objections, and took into consideration the above incompetent and irrelevant evidence, for the court certified (Trans., 1292) that:—

> "Counsel for the City of Chicago made and insisted upon before the court each and every objection in reference to the admission and exclusion of evidence made by the defendants or any of them before the master, as shown in the various master's reports now on file in this cause, and said objections and each of them were overruled by the court."

The above evidence is the only evidence contained in this record, tending in any manner to sustain the gist of the allegations of appellee's bill of complaint, namely, that the assessment of the capital stock and franchise of appellee was not equalized with the assessments made upon the property of other persons and corporations for the same year, and that the members of the State Board of Equalization were coerced into making the assessment complained of.

Appellee's bill of complaint alleges that "the said State Board of *a majority* of its members" adopted or made the assessment complained of "because they believed they were coerced to make such assessment by the peremptory writ of mandate [mandamus]." (Trans., 19.) If it was competent at all

to impeach the records of the State Board of Equalization by showing that the individual members *believed* that they were coerced into assessing property at a particular amount, although the writ itself did not furnish the basis for any such belief, proof that *four* out of *twenty* members believed they were coerced, certainly does not sustain the allegations of appellee's bill of complaint, to-wit: that a *majority* of the members were so coerced.

The question then arises, can the members of the State Board of Equalization impeach their own solemn official acts after they have reduced those acts into a written report in the manner required by law, and placed that report beyond their control? Can the members of such a tribunal stultify their official conduct, and come into a court of justice and testify that in making an assessment, they violated the obligations of their oath, and made the assessment directly contrary to the facts recited in their written report? If such evidence is competent, is the testimony of four out of twenty members sufficient to overcome the force and effect of the united and unanimous action of a body composed of twenty members? If the official acts of the Board may be impeached by the testimony of four members, why not by the testimony of one of those members?

If the doctrine here contended for should ever become settled law, the stability and credit which courts have uniformly ascribed as inhering in the recorded acts of judicial and quasi-judicial bodies would be completely overturned.

The law is well settled by an overwhelming array of authorities that the recorded judgments of judicial and quasi-judicial bodies, cannot be impeached by the subsequent testimony of the members of said bodies, as to how their conclusions were arrived at.

In *Wright* v. *City of Chicago,* 48 Ill., 285, certain commissioners were required by law to report under oath the amount that certain lots were specially benefited by a street improvement. The assessment levied for the purpose of paying for said improvement was contested and an attempt was made to impeach the return of said commissioners by the testimony of one of the members thereof. The court held the evidence incompetent, and said (p. 292):

> "It is also complained by appellant that certain questions were propounded to A. H. Burley, one of the commissioners, which the court disallowed, and we think properly. The scope and object of the interrogatories was to impeach the return of the Commissioners, and to show they violated the oaths they had taken before making the assessment. The commissioners were acting in a *quasi* judicial capacity, as they were required to investigate, deliberate, and decide upon the question before them, and it is unprecedented that persons in such a situation can be called on, in any tribunal, to inculpate themselves, or show reasons for their actions, or stultify themselves."

In *Quick* v. *Village of River Forest,* 130 Ill., 323-25, certain commissioners, in compliance with the requirements of the law, had signed a report making estimates for the levying of a special assessment. The commissioners were required by law to meet and make their estimates. After the commissioners had filed their report it was sought to show by the testimony of one of the commissioners that he did not meet with the other commissioners and had not participated in the assessment complained of. The court held that the report of the commissioners could not be thus impeached, and said:

> "Their duties required investigation, deliber-

ation, and a final determination of the subject referred to them by the board of trustees, and we are aware of no authority which would sanction the calling of such persons to stultify themselves. It may be true that the statute does not, in terms, require such commissioners to be sworn; but their acts are none the less obligatory and binding. Their duties require as much honesty and fidelity where they are not sworn, as if they were acting under oath, and we think it would be establishing a dangerous rule to allow such persons to come upon the witness stand and impeach their voluntary action, after such action has been approved and acted upon by the board of trustees."

In *Ryder Estate* v. *City of Alton*, 175 Ill., 94, an attempt was made to show by one of the commissioners that he had not, in fact, sworn to his report, although it appeared that the commissioner had signed his report, and the Notary Public had attached his *jurat*. The court held that the testimony of the commissioner was not competent for the purpose of impeaching his own record, and said (page 100):

"It is finally objected that the commissioners appointed by the county court to make the assessment did not take the oath required by law. The objectors called as a witness Z. B. Job, one of the commissioners, and offered to prove that the paper which purported to be the oath taken by the commissioners was not in fact sworn to by them. It appeared that the oath required of the commissioners had been signed by them, and the Notary Public had certified, under his hand and seal, that they had taken the oath. One of the commissioners cannot be heard to impeach his own report, nor can he impeach the foundation upon which the report rests. It was not error in the court to refuse to hear evidence from one of the commissioners that the

> oath had not, in fact, been administered to him."

In *Washington Park Club* v. *City of Chicago,* 219 Ill., 323, the attempt was made to impeach a report filed by the superintendent of assessments, by the superintendent's evidence. The court held the evidence incompetent, and said (p. 325):

> "The appellants called John A. May, the Superintendent of Special Assessments, and sought to show by him that he had not investigated the district in which it was proposed to locate said system of sewers, in accordance with the provisions of Section 39 of the Local Improvement Act. In the report filed by the Superintendent of assessments he certified that he had made such investigation, and the appellants could not impeach his report by showing by him he had not discharged his duty in that particular."

In *Republic Life Insurance Company* v. *Pollak,* 75 Ill., 292, a bill was filed by the Insurance Company against the county clerk and county collector, seeking to enjoin an assessment made by the State Board of Equalization upon the capital stock of the Insurance Company. The court held that evidence as to the manner in which the board arrived at their conclusions was incompetent and said (p. 298):

> "Nor can we examine the mode of reasoning or the basis adopted to ascertain the value of property. It may be illogical or even absurd, but that in no wise affects the exercise of the power. If we could look into the mode of reasoning adopted, because it was wholly illogical, we would have the power to do so when it was not strictly logical. And to do so the courts would become the assessors of property and fix its value for taxation, and not the officers elect-

> ed under the law and constitution for the purpose. We cannot, therefore, inquire into the manner in which the Board of Equalization arrived at the value fixed on the property named in the bill."

In *New York Stock Exchange* v. *Gleason*, 121 Ill., 502, where the validity of the assessment of the capital stock of a corporation was again before the Supreme Court of Illinois, that court said (p. 512):

> "The courts cannot inquire into the manner in which, or the basis adopted by, the State Board of Equalization to ascertain and arrive at the value fixed on this property, or to change the valuation they have made."

This court is likewise committed to the doctrine that the judgment of judicial and quasi-judicial bodies cannot be impeached by the testimony of the persons rendering those judgments in reference to how their conclusions were arrived at.

In *Packet Co.* v. *Sickles*, 5 Wall., 580-92, this court said:

> "But it is proper to say that the secret deliberations of the jury on grounds of their proceeding while engaged in making up their verdict, are not competent or admissible evidence of the issues or findings."

In *Fayerweather* v. *Ritch*, 195 U. S., 276, it was sought to show that a point which appeared to be in issue by the pleadings of the case was not in fact decided by the court who rendered the opinion. For the purpose of showing that, the complaining party offered to prove the point by having the judge testify what facts the judge took into consideration when he rendered his judgment. This court, in holding that kind of evidence incompetent, said:

> "A judgment is a solemn record. Parties have a right to rely upon it. It should not lightly be disturbed, and ought never to be overthrown or limited by the oral testimony of a judge or juror of what he had in mind at the time of the decision."

On *Coulter* v. *Louisville & Nashville R. R. Co.*, 196 U. S., 599, members of the State Board of Valuation and Assessment of Kentucky were permitted by the trial court to testify what facts they took into consideration when they made the assessment complained of. This court held, citing the case of *Fayerweather* v. *Ritch, supra,* that it was not competent to put "*members of a tribunal established by law upon the witness stand to testify to the operation of their minds in doing the work intrusted to them.*"

Eliminating the incompetent testimony above pointed out, there is no evidence in this record tending in any wise to show that the assessment complained of was not the honest, independent judgment of the members of the State Board of Equalization, and nothing to impeach the specific recitals in the records of the board to the effect that the capital stock and franchise of the appellee and its lessor corporations were assessed at their fair cash values, and that those values were equalized to correspond with the assessments made upon the property of other persons and corporations for the same year.

B.

The extracts from the reports of the Railroad and Warehouse Commissioners and from the reports of the Board of Agriculture for the State of Illinois were incompetent.

The appellee alleged in its bill of complaint that the properties of steam railroads within the State

of Illinois were assessed at only 1/5 of 50% of their actual value, while the capital stock and franchises of the appellee and the other corporations above named were assessed at 1/5 of their actual cash value. To sustain the allegations of appellee's bill in that regard, appellee offered in evidence certain extracts from the report of the Railroad and Warehouse Commission of the State of Illinois for the year 1900, to which appellant's counsel objected and the same was received subject to said objection. (Trans., 230.) Said extracts purported to show that there were 116 railroads operating within the State of Illinois during that year; that the total mileage of main line and branches owned by said railroads inside and outside of the state amounted to 47,685.37 miles; that of such total mileage 10,817.10 of main line and branches were located in Illinois; that 1,548.71 miles of second, third and fourth additional main tracks and 4,248.56 miles of yards, tracks, sidings and spurs were located in Illinois; that the total amount outstanding of the capital stock of said railroad companies was $1,401,508,589.00; that the amount of capital stock per mile of line was $28,867.00; that the funded debt per mile of said road was $34,305.

Multiplying the number of miles of railroad located in this state, by the amount of capital stock per mile, produces a total of $312,254,339; computing the funded debt in the same way within the State of Illinois, produces $371,077,185; adding the two together makes $683,331,524. The published reports of the State Board of Equalization for the year 1900 shows that the full value of all the property of the railroads within the state was assessed at $389,393,360.

It it argued that the above evidence was compe-

tent, and tended to show that railroad property within the State of Illinois, was assessed at a far lower rate than was the property of appellee, and the other corporations above named.

There are three reasons why the above evidence should be disregarded by this court:

First: The State of Illinois could, without violating the Federal Constitution, tax the property of steam railroads at a different rate and upon a different basis than it taxed the property of corporations engaged in operating street railroad, gas, electric light and telephone plants.

Missouri v. *Dockery*, 191 U. S., 165.

Coulter v. *Louisville & N. R. Co.*, 196 U. S., 592.

Second: The evidence is incompetent. The Railroad and Warehouse Act of the State of Illinois (Hurd's Revised Statutes, 1899, Chap. 114, p. 1350) creates a commission of three persons, and it makes it the duty of every railroad doing business within the State of Illinois (Sec. 6) to furnish to said commissioners written reports of the amount of their capital stock, the funded debt, and the character and extent of their property located within the state.

The Statutes of Illinois, however, do not require that the commissioners shall investigate and determine either the extent or the value of the tangible property and capital stock of railroads, and there is no provision in the Statute requiring said commissioners to make any report in that regard.

The above tables were produced by the witness, William M. Flook (Trans., 230) and when said Flook was interrogated concerning the figures from the Railroad and Warehouse Commission furnished by him, he answered as follows (Trans., 219):

"Q. You don't know anything about the number of railroads outside of that report? A. I do not.

"Q. You don't know who compiled that report? A. I do not.

"Q. You don't know whether that report is correct or not? A. I do not.

"Q. That applies also to your statements here of the number of miles of main line and second, third and fourth tracks of the railroad companies in Illinois, and the miles of yards, and so forth? A. I know nothing about it except as taken from that report."

He was then cross examined in detail as to each and every item of said report, and invariably answered that he had no knowledge, except what he found in the report itself. It is plain that the compilation made by the Railroad and Warehouse Commissioners above referred to, did not come within any of the rules which makes the records of public officers, under certain circumstances, competent.

In order to make a pulic record competent evidence of a fact therein recited, two things are necessary: First, that the fact therein recited is required by law to be recorded by the official; second, that the person recording the fact must have had personal knowledge of the matters he was registering at the time. Unless both of the above conditions co-exist, a public record is incompetent when offered as evidence tending to establish a fact in a court of justice.

In *Hegler* v. *Faulkner*, 153 U. S., 109, the precise question here presented was before this court. That case was a dispute between certain parties claiming land under adverse chains of title, and it became material to determine whether a certain Indian was of full age when he made a transfer of the lands in

question. For the purpose of proving that fact the plaintiff in error there offered in evidence a report from the Commissioner of Indian Affairs, which contained a list, giving the names and ages of the Indians of a certain tribe, and including that of the Indian in question. Said report was prepared by said commissioner pursuant to an Act of Congress giving the Commissioner of Indian Affairs jurisdiction to make said investigation. This court held that the proffered evidence was incompetent, and said (page 117):

> "No provision was made, in either the Act of Congress or the rules and regulations of the Indian department, to preserve the list as a muniment of title, much less as a public record admissible to prove merely incidental recitals based on hearsay. Such a list does not come within the rule which permits, for some purposes, the use of 'official registers or records kept by persons in public office, to write down particular transactions occurring in the course of their public duties or under their particular observation.' (1 Greenl. Ev., Sec. 483.) 'It must be remembered that *official registers are not in general evidence of any fact not required to be recorded in them, and which did not occur in the presence of the registering officer.* Thus, a parish register is evidence only of the time of a marriage and of its celebration *de facto*, for these are the only facts necessarily within the knowledge of the party making the entry. So a register of baptism, taken by itself, is evidence only of that fact. Neither is the mention of the child's age in the register of christenings proof of the day of its birth, to support a plea of infancy.' 1 Greenl. Ev., Sec. 493.
>
> "In *Mutual Ben. L. Ins. Co.* v. *Tisdale*, 91 U. S., 238, where the right of action depended on the death of a third person, it was held that letters of administration upon the estate of such

person granted by the proper Probate Court, in a proceeding to which the defendant was a stranger, afforded no legal evidence of such death; and it was said: 'The only ground for the admission of the letters of administration is, that granting them is a judicial act; but a judgment is not evidence of any matter to be inferred by argument therefrom, or which comes collaterally in question, or is incidentally cognizable.'—Citing the *Duchess of Kingston's Case*, 20 How. St. Tr., 355, and many others.

"In *Connecticut Mut. L. Ins. Co.* v. *Schwenk*, 94 U. S., 593, it was held that an entry in the minute book of a lodge of Odd Fellows, of which the deceased was a member, made prior to the issue of a policy, and showing his age as recorded by the secretary of the lodge in the usual manner of keeping its records, was not admissible as evidence of such age.

"We do not deem it necessary to discuss this question at greater length. Our conclusion is that the court below did not err in excluding the list offered. It was not an official record, intended as a mode of preserving the recollection of facts, nor was it *based upon the personal knowledge of the party making the entry.* It was mere hearsay."

It will be noted that the list in the above case was held to be incompetent because it was not "based upon the personal knowledge of the party making the entry." The report of the Railroad and Warehouse Commissioners in this case was based upon information furnished by others, and no part of it purports to have been based upon the personal knowledge of the party compiling that report. The evidence was therefore incompetent, and should have been excluded by the court.

Chaffee v. *U. S.*, 18 Wall., 516, was an action brought by the United States to recover against the plaintiffs in error certain penalties, under the claim

that the plaintiffs in error had failed to pay taxes on distilled liquors manufactured by them. For the purpose of proving the amount of liquors that had been distilled, without the payment of taxes, the government offered in evidence the entries in the books of the Revenue Collectors at certain ports, where the boats belonging to the plaintiffs in error had landed. This court, in holding that evidence was incompetent, said:

> "If, now, we apply the rule which we have mentioned to the certificate books of the Canal Collectors, their inadmissibility is evident. They were not competent evidence as declarations of the collectors, for the collectors had no personal knowledge of the matters stated; they derived all their information either from bills of lading or verbal statements of the captains. Nor were the books competent evidence as declarations of the captains, because it does not appear that the bills of lading were prepared by them, or that they had personal knowledge of their correctness, or that their verbal statements, when the bills of lading were not produced, were founded upon personal knowledge; and besides, many of the certificates were admitted without calling the captains who signed them, and without proof of their death or inaccessibility."

In *Swift* v. *State of New York*, 89 N. Y., 52, an engineer was required by law to make a certain report. The court, in holding that report not to be competent evidence of the facts therein recited, said (page 64):

> "The report itself, based as it is upon *information derived from others* and upon an estimate not made by the engineer in person, could, under no circumstances, be considered as evidence of any fact therein stated."

The rule that reports and publications made by public officers are inadmissible, unless those reports were made with reference to facts required by law to be recorded, and made by a person having personal knowledge of those facts, is sustained by a vast array of authorities, among which may be mentioned the following:

In *Culver* v. *Caldwell*, 137 Ala., 125, the official report of an examiner of public accounts, concerning the accounts of the Department of Agriculture, was held incompetent.

In *Gordon* v. *Bucknell*, 38 Iowa, 438, the report of a Land-Office Register as to the ownership of land was held inadmissible.

In *State* v. *Krause*, 58 Kan., 651, an action was brought on a treasurer's bond to recover a deficit, and it was held that an official examiner's report, made pursuant to an act of the Kansas Legislature, in reference to the condition of the Treasury was incompetent.

In *Wellington* v. *Railroad Co.*, 158 Mass., 185, an award made by Land Damage Commissioners pursuant to the statutes of the state was held incompetent in an action where the extent of the damage to the land was in controversy.

In *Jones* v. *Guano County*, 94 Georgia, 14, the report of the Commissioner of Agriculture of the state, containing an official analysis made by the State Chemist, was held incompetent as evidence tending to prove the existence of the ingredients described in said report.

In *State* v. *Wells*, 11 Ohio, 261, the report of an auditor was held incompetent to prove the treasurer's default.

Third: There is no evidence in this record that the stock of the railroad companies above named

was worth par, and no evidence that the mileage within the State of Illinois was of the same value as the mileage without the state.

To take a single illustration—the amount of money expended by the Pennsylvania Railroad Company in tunneling under the Hudson river into New York City, and building its new depot there, might exceed the value of all its property in the State of Illinois. We take this illustration merely for the purpose of showing the futility of asking a court of chancery to overturn the official returns of the assessing officers of a state upon evidence so uncertain, and inconclusive, as that contained in this record.

The appellee also offered in evidence the report of the State Board of Agriculture of the State of Illinois, which report purported to show the number of hogs, horses and cattle in the State of Illinois, as returned by the local assessors for the year 1900, and the assessed value of said animals, which evidence also went in subject to the objection of appellant's counsel (Trans., 195).

By comparing the statements contained in the report of the State Board of Agriculture, purporting to show the assessed valuations made by the assessors on hogs, horses and cattle in the State of Illinois for the year 1900, with the average price at which it is claimed hogs, horses and cattle were sold, as shown by certain statistical reports of the Union Stock Yards and Transit Company, it is claimed that hogs, horses and cattle were assessed at a lower rate during the year 1900, than was the capital stock and franchises of the appellee and the other corporations above named.

Here, again, we must remind the court that there is no Federal law which requires that live stock

shall be assessed at the same rate as the capital stock and franchises of street railroad, electric light, gas and telephone companies. The state might have provided that live stock should be assessed at one-fifth of fifty per cent of its cash value, and that the capital stock and franchises of the corporations above named should be assessed at one-fifth of their full cash value. Such a law would not be contrary to any provision of the Federal constitution. If the state could have made a discrimination by direct legislation, no one can argue that merely because the state officers in executing a state law make the same discriminations, that, therefore, the state deprives the appellee of its property, in contravention of the Federal constitution.

Again, the report of the Illinois State Board of Agriculture was incompetent under the authorities already cited. That Board is a quasi-municipal corporation, created under the laws of the State of Illinois (Hurd's Revised Statutes of Illinois, 1899, p. 129),—and is authorized (Sec. 9) to publish "reports or essays connected with agriculture, horticulture, manufacture or the domestic arts." There is nothing in the statutes of the State of Illinois, which require the State Board of Agriculture to make an investigation into the assessed valuations made by the local assessors of the state, or to compile any statistics in that regard, and the report in question is clearly incompetent as evidence tending to prove any of the above facts.

Again, the report is competent, because it discloses upon its face that it is compilation of information derived from others. It is not, and does not, purport to be made upon the personal knowledge of any member of the State Board of Agriculture. (Trans., 195 and 196.)

Moreover, the figures of the State Board of Agriculture proved nothing standing alone. They are here compared with certain valuations contained in the statistical reports of the Union Stock Yards and Transit Company. The reports in question were incompetent, as we shall hereafter point out, because they were mere private compilations and there was no evidence given before the master that the valuations shown by said reports were correct.

C.

The figures taken from the books of the Union Stock Yard and Transit Company and from Brown's Directory of American Gas Companies were not competent evidence and should have been excluded.

Appellee offered in evidence (Trans., 194) a statement taken from the statistical reports of the Union Stock Yard and Transit Company, purporting to show the number of cattle, hogs and horses sold at the Union Stock Yards at Chicago during the years 1899, 1900 and 1901, and the value of each kind of animal, and the average value per hundred. The values obtained from the above statistical reports were then compared with the alleged returns of the Board of Assessors for Cook county, and said comparison, it is contended, demonstrated that the Board of Assessors greatly under-assessed the live stock in question. To which evidence appellant's counsel objected. (Trans., 193.)

The defendant likewise offered in evidence certain figures taken from Brown's Directory of American Gas Companies for the year 1900, purporting to show capital stock and outstanding bonded indebtedness of gas companies in the State of Illinois, other than the People's Gas Light and Coke Com-

pany. (Trans., 234.) This evidence was also objected to. (Trans., 129, 130.) The figures thus obtained are then compared with the full value of the capital stock and franchises of said corporations as fixed by the State Board of Equalization of the State of Illinois for the same year, and the inference is sought to be drawn from this evidence that the properties of such gas companies were assessed far below their actual cash value, and at a far less rate than was the appellee, and the other corporations above named.

The statistical matters taken from the reports of the Union Stock Yard and Transit Company, and the figures taken from Brown's Directory of American Gas Companies, were produced by the witness Edward J. E. Ward. (Trans., 188.) Mr. Ward admitted that he had no personal knowledge concerning the truth of any of the matters contained in the statistical tables produced by him.

Concerning the matters contained in Brown's Directory of American Gas Companies, he testified (Trans., 224):

> "Q. You don't know whether that is correct or not—you have no personal knowledge of the matter? A. No knowledge whatever.
>
> "Q. You have not verified that in any way, have you, that information? A. No.
>
> "Q. The data included in the columns headed 'Equalized Value of the Tangible Property' and 'Full Value of Capital Stock and Franchises and fixed by the State Board respectively,' you took from the published report of the State Board of Equalization for the year 1900? A. I did.
>
> "Q. You don't know whether or not that included all of the tangible property as assessed for that year, do you? A. No."

The witness was further cross examined, and admitted that he had no personal knowledge of the truth or accuracy of any of the figures produced by him, but merely took them from the publications above named, and assumed their accuracy and then made his deductions.

The law is well settled that private publications, whether written or printed, are incompetent as evidence, unless accompanied by the testimony of the person who compiled the information, to the effect that the compilations therein made are true, of his own personal knowledge.

In *Seymour* v. *McCormick,* 19 Howard, 96, the validity of a patent upon a reaping machine was in issue, and under the 15th section of the Patent Act of 1836, providing that the defendant to an infringement suit might prove that "it (the improvement) had been described in some public work anterior to the supposed discovery thereof by the patentee," the defendant offered in evidence a description of said machine contained in "London's Encyclopedia of Agriculture," published in London, England. This court held that the description contained in the encyclopedia was properly excluded, and said, referring to said publication:

> "The work is no evidence of the facts relied on for the purpose of laying a foundation for the inference of the jury sought to be obtained."

In *Langley* v. *Smith,* 3 New York St. Rep., 276, it was held reversible error for the trial court to admit in evidence, as tending to prove the defendant's place of business, the entries contained in a city directory. The court there said:

> "There is no rule making a directory evidence *per se.* The accuracy and reliability of

> such publications depend entirely upon the source from which the information it contains was obtained. The statement in the directory was unverified, and no attempt was made to show by whose or by what authority the name and address of the defendant appeared, or how, when, where, from what, from whom, or by whom the information was obtained so as to connect the defendant with the publication or even charge him with knowledge of it. Evidence of this sort must be considered as mere hearsay, and as such is of an unreliable character."

In *State* v. *Daniels*, 44 New Hampshire, 383, a printed catalogue containing the names and residences of certain parties was held incompetent evidence with reference to the facts therein stated. The court said, concerning the said catalogue (p. 385):

> "They were mere hearsay; the statement, without oath, of the unknown parties who prepared them."

In *Richardson Bros. & Co.* v. *Stringfellow*, 100 Ala., 416-418, entries purporting to show a man's financial rating contained in the published reports of a Commercial Agency were held incompetent.

In *Cooke* v. *Slate Company*, 36 Ohio St. Rep., 135, the same rule was laid down.

In *Spalding* v. *Hedges*, 2 Pennsylvania St., 240, it was held that the distance between two points could not be proved by offering in evidence a printed gazetteer, purporting to show geographical and historical knowledge in reference to the population, distances, etc.

In *Payson* v. *Everett*, 12 Minn., 216, the question at issue was the genuineness of certain bank notes. It was held reversible error, to prove the facts in

the case by receiving in evidence a printed publication known as "Bank Note Detectors."

The following cases are all to the same effect:

Vogt v. *Cope*, 66 Cal., 31.

Whiton v. *Albany etc., Ins. Co.*, 109 Mass., 31.

North Chicago Rolling Mills Co. v. *Monka*, 107 Ill., 341.

City of Bloomington v. *Schrock*, 110 Ill., 221.

Tichenor v. *Newman*, 186 Ill., 264-82.

Yoe v. *People*, 49 Ill., 410-12.

Gale v. *Rector*, 5 Ill. App., 481-4.

Chicago C. Ry. Co. v. *Douglas*, 104 Ill. App., 41-45.

Sisson v. *C. & T. R. R. Co.*, 14 Mich., 496.

Fairley v. *Smith*, 87 N. C., 367.

Gallagher v. *Market St. Ry. Co.*, 67 Cal., 13, and cases cited.

D.

The alleged discrepancy between the United States Census Reports and the Assessors' returns, with reference to the amount of live stock within the State of Illinois during the year 1900, did not tend to prove any issue in this case.

The appellee here offered in evidence, over the objection of appellant's counsel, certain statistical tables made out by the witness Ward, in which he computed the number of horses, cattle and hogs returned for assessment by the local assessors of the various counties in the State of Illinois, for the year 1900. (Trans., 198.) This information the witness took from the reports of the State Board of Agriculture. He then made a similar compilation from the United States Census. By comparing the two the inference was sought to be drawn that

a large number of horses, cattle and hogs had not been assessed by the local assessors. We have already pointed out that the report of the State Board of Agriculture was incompetent. Any comparison, then, which depends for its probitive force upon the truth of incompetent evidence must be disregarded by this court.

Again, there is nothing to show that these compilations were made at the same time. There is no evidence when the census takers actually made their calculations. The census report bears date the 1st of June, 1900. The local assessors are required to list the property as of the 1st of April; so a comparison between dates two months apart in a state where conditions are constantly changing cannot be the basis of any intelligent calculation. But, should we concede everything that counsel claim for this item of evidence, it proves nothing in this case. Suppose the local assessors for the year 1900 omitted to assess ten per cent of the live stock in the State of Illinois. The statutes of the state make it their duty at any year or years thereafter, to assess all omitted property. Surely, an assessment that is fair and just upon its face cannot be set aside by a court of equity, because property which should have been assessed has been omitted, especially when the statute makes it the duty of the assessors for the succeeding years to assess all property which was omitted in prior years.

E.

The records of the State Board of Equalization do not sustain any of the allegations of appellee's bill.

Appellee offered in evidence certain resolutions contained in the minutes of the proceedings of the

State Board of Equalization for certain years, from 1873 down to 1893 (Trans., 231-233.) The one for the year 1875 was as follows:

> "Resolved, that in the opinion of this board, the real and personal property of the state is assessed for the year 1875 at fifty per cent of its cash value."

The resolutions for the other years were in substantially the same language, except that the percentages for the different years varied. There was nothing in the minutes of the proceedings of the State Board of Equalization after the year 1893, to indicate that property had been assessed at a figure less than its fair cash value. The inference was sought to be drawn from this evidence that because the State Board had expressed an opinion that the real and personal property of the state had been assessed less than its cash value for certain years prior to 1893, therefore it must have been so assessed in the year 1900. We have already pointed out that a failure to assess tangible property at the same rate that the capital stock and franchises of corporations are assessed does not present a question of Federal law. Again, there are many other reasons why this evidence does not establish the point contended for:

The State Board of Equalization was not required to make any record in reference to whether property had been undervalued. That was not one of the duties which the law had delegated to the board. Moreover, there is nothing in the record to show that the board had any personal knowledge in reference to whether property had been undervalued during the years in question. The opinion of the board was purely hearsay, and did not in any way tend to establish the ultimate fact.

Second, conceding that the opinion of the board was competent evidence tending to show that there were undervaluations of the property assessed prior to 1893, that evidence would, in no way, tend to show that such undervaluations were made in the year 1900. This is especially true when we remember that the assessment for the year 1900 was made under the Act of July 1st, 1898 (Hurd's Revised Statutes of Illinois for 1899, p. 1444), which act made a radical change in the manner of assessing property for taxation.

The Revenue Act of 1872 provided (2 Gross. Stat. of Ill. for 1871 and 1872, p. 347, secs. 76, 78 and 90) that real and personal property should be listed for taxation by the local assessors in proper columns at its "fair cash value." This statute remained in force until July 1st, 1898.

By the terms of the Act of July 1st, 1898, it was provided that it was the duty of the local assessors to set down in one column the "full value" of real and personal property, and in another column one-fifth of said full value, which later sum should be "the assessed value." This statute was enacted for the very purpose of doing away with the practice of undervaluing property by local assessors which it is claimed had existed prior thereto. There is not a particle of evidence in this record that, after this statute went into effect the assessing officers did not, in conformity with this statute, set down in one column the full value of property, then take one-fifth of such full value, and return the latter sum as the assessed value. In the absence of proof on the subject, the legal inference is that the assessors discharged their full duty.

The precise question here presented was before this court in the case of *Coulter* v. *Louisville & N. R.*

R. Co., 196 U. S., 599. There the assessors had, prior to 1891, pursued a systematic course of undervaluing property, which had been recognized by the legislature, and for the purpose of doing away with this custom, the Constitution of the state was amended in 1891, so as to require property to be assessed at its fair value.

Speaking of the finding of the Circuit Court in that regard this court said (p. 606):

> "In the first place it found a settled habit of undervaluing, recognized by the legislature and the state court, before the adoption of the Constitution of 1891, which required the fair cash value to be assessed."

It was argued that proof of the systematic undervaluation which existed prior to the adoption of the Constitution of 1891 tended to show its existence thereafter. This court held the inference was unwarranted, and said:

> "There is, no doubt, a natural inclination to think such an undervaluation probable when it is suggested. But what is the proof? The State Constitution, whatever the statutes may have said, seems popularly to have been understood to have made a great change in the law. Practice before its adoption, therefore, hardly can raise a presumption as to the practice afterwards, even on the liberal assumption that it properly could be considered in evidence."

Applying the above opinion to the facts in this case, we must reach the conclusion that undervaluation, prior to the adoption of the Statute of 1898 "even on the liberal assumption that it properly could be considered in evidence" does not "raise a presumption as to the practice afterwards."

Appellee also offered in evidence the records of the proceedings of the Illinois State Board of Equalization for the year 1900 (Trans., 851), and the year 1901 (Trans., 1041). These proceedings set forth the assessments made upon the capital stock and franchises of the appellee and all the other corporations above named, during said years. The court in its opinion (Trans., 1276) instituted a comparison between the re-assessments of November 22, 1901, made as and for April 1, 1900, and the assessment of December 9, 1901, made for the year 1901, and because the valuations fixed by the re-assessment of 1900, were far greater than the valuation fixed by the assessment of 1901, therefore the court said the re-assessment did not represent the real judgment of the board. In the course of that opinion the court said (Trans., 1277):

> "I can comprehend also a state of facts showing that either one or the other may have embodied the board's real judgment. But both cannot be vindicated. In the very nature of things, one or the other has been made up under some species of fraud, mistake or coercion."

The inference drawn by the court was erroneous. First, if the re-assessment for the year 1900 was made under fraud or coercion, that was a fact, concerning which the burden was upon the appellee to establish by competent evidence as to what took place at and before that re-assessment.

The valuation placed upon the property in question by the assessment for the year 1901 had no bearing upon the validity or the invalidity of the assessment made for the year 1900. The amount at which the property of the appellee was assessed for the year 1901, was immaterial to the issues in this case.

Hence, it was not competent for appellee to prove an immaterial and irrelevant fact, namely, the amount of the assessment for the year 1901,—and then to infer the invalidity of the assessment complained of, by comparing the assessment made for the year 1900, with the confessedly irrelevant fact, namely, the amount of the assessment for the year 1901.

Second, the re-assessment of 1900, and the assessment of 1901, were made under different sets of rules, and hence no comparison could properly be made between the valuations fixed by them.

In 1873, certain rules were adopted by the State Board of Equalization for assessing the capital stock and franchises of corporations, which rules remained in force at the time of the filing of the petition for a mandamus in the Circuit Court of Sangamon county, on November 10, 1900. (Trans., 330.) Said rules provided substantially that the fair cash value of the shares of the capital stock and of the debt of a corporation (excluding indebtedness for current expenses) should be added together, and from said sum should be deducted the equalized assessed value of the tangible property of said corporation, and the amount remaining should be the assessed value of the tangible property.

The above rules were expressly held by this court to be legal, and well calculated to produce fair and equitable assessments on the capital stock and franchises of corporations.

State Railroad Tax Cases, 92 U. S., 575-618.

On the 22nd day of November, 1900, immediately after the Circuit Court had overruled the demurrer of the respondents, the State Board of Equalization, for the purpose of evading its duty, adopted a new

set of rules (Trans., 331). The Supreme Court of Illinois held that the new set of rules adopted on November 22, 1900, were in conflict with the statutes of the State of Illinois, as they had been interpreted by that court for a quarter of a century and as interpreted by this court in the *Railroad Tax Cases*. The court therefore held that said rules were illegal and that it was the duty of the State Board of Equalization to assess the capital stock and franchises of the appellee, and the other corporations then before the court, in accordance with the first set of rules above described. The State Board of Equalization then proceeded, on November 22, 1900, to make the re-assessment complained of for the year 1900, under the first set of rules above referred to. On December 10, 1901, (Trans., 1074) the State Board of Equalization adopted a third set of rules that differed from both of the others, and the assessment of December 10, 1901, was made under the third set of rules. It would serve no useful purpose to attempt to determine which of the two sets of rules is best calculated to promote fairness and equality in making assessments, for the Supreme Court of Illinois has determined that the assessment of appellee for 1900 should be made under the set of rules which was then in force. This is obviously so, for all the other Illinois corporations were assessed in the year 1900, under the first set of rules above described, and the most that appellee could insist on in a Federal Court would be to have its property assessed by the same method that was pursued by the Board in valuing the property of other corporations for the same year. Should it be argued that the rules adopted December 10, 1901, when properly interpreted, mean the same thing as the rules in force April 1, 1900, the conclusive answer to that

argument is that a change by the Board in the phraseology of the rules was obviously intended to change their meaning. It matters not how this court may interpret those rules, for if the State Board of Equalization erroneously, or otherwise, interpreted the rules enacted December 10, 1901, to have a different meaning from the first set of rules, it necessarily follows that it is useless to make any comparison between the two assessments.

Even should we assume that the capital stock and franchises of appellee were of the same value on April 1, 1900, that they were on April 1, 1901 (concerning which, however, there is no evidence in the record), it does not follow that the differences in the amounts of the respective assessments should be attributed to fraud or coercion. It would be contrary to all the rules of law to infer fraud or coercion from such differences, especially where there are other explanations consistent with the conceded facts.

F.

The testimony of the officers and agents of the appellee in reference to the value of its property on April 1, 1900, did not tend to establish the allegations of appellee's bill of complaint.

Williston Fish testified in behalf of appellee (Trans., 265) that all its real and personal property, including its franchises, was worth a great deal less than the equalized assessed value placed upon said property by the State Board of Equalization, and there is also some evidence in the record, showing the fluctuations in the market value of the stocks and bonds of appellee and the other corporations above named.

The rule is a familiar one that an assessment

cannot be overturned by proof of overvaluation alone, unaccompanied by evidence of fraud or other misconduct on the part of the assessing officer.

We have now reviewed all the evidence contained in this record that has any tendency to make out the allegations of the appellee's bill of complaint. Most of the evidence is irrelevant and incompetent, under familiar rules of law, and what little remains does not even raise a suspicion that the allegations of appellee's bill of complaint are true, to say nothing of constituting that clear and conclusive proof which courts always require, before they will interfere with the values fixed on property by the assessing officers of the state.

III.

APPELLEE HAS NOT MADE OUT A CASE ENTITLING IT TO RELIEF IN A COURT OF EQUITY.

Should we concede everything that was claimed by the Circuit Court on the question of jurisdiction, namely, that a Circuit Court of the United States has the same power in this case to enforce the constitutional and statutory provisions of the State of Illinois in reference to uniformity and equality of taxation, that would be possessed by a state court, an examination of the bill of complaint in this case, together with the undisputed evidence contained in this record, shows that appellee has not made out a case entitling it to relief in a court of equity.

(A) If the contention of appellee be sound, that the re-assessment of 1900 was void and illegal because the board had exhausted its power in making the first assessment, then appellee had an adequate remedy at law, for it could have paid the void assessment and then have recovered the money back.

Appellee alleges in its bill of complaint (Trans., 27) that the re-assessment made on November 22d, 1901, as and for the 1st of April, 1900, was void and illegal because the board had exhausted its power in the making of the first assessment. We have already pointed out that the Supreme Court of Illinois held that the first assessment was fraudulent and void, and affirmed the judgment of the state Circuit Court directing the making of the second. A construction placed by the highest court of the state upon the taxing laws of that state is binding upon a federal court.

State Railroad Tax Cases, 92 U. S., 575-618.

The fact that the appellee paid the taxes in January, 1901, while the mandamus suit was pending against the state board can make no difference. The appellee had full notice that the tax was being contested on the ground that it was fraudulent, and any payment that it made in the interim was made at its peril. In fact, the evidence in this record shows that John S. Miller, the counsel for the State Board of Equalization in the mandamus suit, received compensation from the appellee and the other corporations who were defendants to that mandamus suit.

Should we, however, concede the contention of appellee that after the first assessment for 1900 was made the State Board of Equalization had exhausted its power, and that the second assessment was void and illegal, then it is plain that this bill does not present any grounds for equitable intervention. It is charged in appellee's bill of complaint (Trans., 18) that warrants are in the possession of the Town Collector of the Town of North Chicago, requiring said collector to enforce the collection of the entire

tax levied pursuant to the assessment complained of, and that unless payment is made by appellee said collector will make a levy upon the cars and property of the appellee. The facts then show that appellee could pay the entire tax here in controversy under protest to the Town Collector of the Town of North Chicago, and then bring an action at law against said collector to recover back the money. If the claim of appellee be sound that the tax is void and illegal, it necessarily follows that the warrant is equally void, and that the demand of the Town Collector is unlawful and unauthorized. The law is well settled by the decisions of the Supreme Court of Illinois that where a tax collector attempts to collect an illegal tax, the aggrieved party may pay the tax under protest and recover the money back in an action of assumpsit.

City of Chicago v. *Northwestern Mutual Insurance Co.*, 218 Ill., 40-44.
Cook County v. *Fairbank*, 222 Ill., 578-589.

This court has often decided that where a tax is illegal and void and can be paid under protest and then recovered back from the collector, the aggrieved party has an adequate remedy at law, and a court of equity will not assume jurisdiction.

In *Shelton* v. *Platt*, 139 U. S., 591, a bill was filed against the Comptroller of the State of Tennessee and the Sheriff of Hamilton County in said state, to enjoin the collection of a tax levied against the United States Express Company. It was there charged that the express company was engaged in interstate commerce; that the Sheriff was about to seize its wagons and property, and interrupt and interfere with interstate commerce; that the tax was unconstitutional and therefore illegal and void. This court there dismissed the bill of the express com-

pany upon the ground that the company had an adequate remedy at law, the remedy being by paying the illegal tax under protest and then bringing an action to recover it back. This court there said (p. 595), quoting from Cooley on Taxation:

> "When a tax is assessed as a personal charge against the party taxed, or against his personal property, it is difficult to suggest any ground of equitable jurisdiction. Presumptively the remedy at law is adequate. If the tax is illegal and the party makes payment, he is entitled to recover back the amount. The case does not differ in this regard from any other case in which a party is compelled to pay an illegal demand; the illegality alone affords no ground for equitable interference, and the proceedings to enforce the tax by distress and sale can give none, as these only constitute an ordinary trespass. To this point the decisions are numerous."

In *Allen* v. *Pullman's Palace Car Co.*, 139 U. S., 658, a bill was filed by the Pullman Company against the Comptroller of the State of Tennessee seeking to enjoin the collection of certain license fees levied pursuant to the laws of the state, which laws the company averred to be in conflict with the Federal Constitution, and that the taxes were therefore "illegal and void." The contention that there was an adequate remedy at law was raised for the first time in the case under consideration in this court. There were elaborate allegations in reference to the irreperable injury and the interruption of the Pullman Company's business that would be occasioned by the levy upon and the sale of its property for the satisfaction of this tax. Yet this court held that payment under protest in an action at law to recover back the money constituted an adequate remedy at law.

To the contention that the point should have been raised in the court below this court said (p. 662):

> "But in *Lewis* v. *Cocks*, 90 U. S., 23 Wall., 466, it was held that if the court, in looking at the proofs, found none of the matters which would make a proper case for equity, it would be the duty of the court to recognize the fact ang give effect, though not raised by the pleadings nor suggested by counsel."

In *Pacific Express Co.* v. *Seibert*, 142 U. S., 339, the same rule was laid down.

In *Pittsburgh, Etc., R. Co.* v. *Board of Public Works*, 172 U. S., 38, this court said:

> "In the *State Railroad Tax Cases* this court in a careful and thorough opinion delivered by Mr. Justice Miller, stated that 'it had been repeatedly denied that neither the mere illegality of the tax complained of, nor its injustice nor irregularity, of themselves, give the right to an injunction in a court of equity. * * * But we may say that, in addition to illegality, hardship, or irregularity, the case must be brought within some of the recognized foundations of equitable jurisdiction; and that mere errors or excess in valuation, or hardship or injustice of the law, or any grievance which can be remedied by a suit at law, either before or after payment of taxes, will not justify a court of equity to interpose by injunction to stay collection of a tax.' When the illegality of the tax or invalidity of law is shown, it is necessary to go further to make a case under some head of equity jurisdiction in order for this court to retain jurisdiction to enjoin the collection of tax."

An attempt is made to bring appellee's bill of complaint within the rule that an injunction was necessary for the purpose of preventing a multiplicity of suits, for, it is alleged (Trans., 19), that

after said taxes have been collected the Town Collector is required by law to distribute said taxes to the Treasurer of the City of Chicago, the Cook County Treasurer, the Treasurer of the Sanitary District, etc. The complete answer to that proposition is that appellee is not obliged to pursue the fund into the hands of the different municipal officers of the State of Illinois; it may pay its money under protest to the Town Collector and sue him to recover back the entire sum. If the Town Collector should pay the money over to any of the officers named he would be acting at his peril and would be liable, together with the sureties on his official bond, to the appellee for the entire sum. A tax collector is always under the law required to pay the money over to somebody else, and the money is nearly always distributed among different officials charged with the administration of the revenue laws, but no case in this court has ever held that a case of equitable jurisdiction can be made out by inserting allegations of the character above set forth.

(B) Overvaluation of property by an assessing body, unaccompanied with fraud or bad faith, furnishes no ground for equitable intervention.

There are many general and indefinite allegations in appellee's bill of complaint, but when those allegations are reduced to their lowest terms the whole bill (aside from the claim that the second assessment was void) is that the property of appellee was assessed at a higher proportionate amount than was the property of other persons and corporations throughout the State of Illinois for the same year. There is not the slightest competent evidence tending to show any fraud or bad faith on the part of the State Board of Equalization.

Overvaluation alone, unaccompanied by fraud or bad faith on the part of the assessing officers, furnishes no ground for interfering with an assessment. In *State Railroad Tax Cases,* 92 U. S., 575, this court, after pointing out that overvaluation alone furnished no ground for setting aside an assessment, said:

> "As we do not know on what evidence the board acted in regard to these railroads, or whether they did not act on knowledge which they possessed themselves, and as all valuation of property is more or less matter of opinion, we see no reason why the opinion of this court, or of the Circuit Court, should be better or should be substituted for that of the board, whose opinion the law has declared to be the one to govern in the matter."

In *Pittsburg C. C. & St. L. R. Co.* v. *Backus,* 154 U. S., 421, this court said (p. 434):

> "The true cash value of plaintiff's property in the State of Indiana in the year 1891 was a question of fact, the determination of which, for the purpose of taxation, was given to this special tribunal, the state board. Whenever a question of fact is thus submitted to the determination of a special tribunal, its decision creates something more than a mere presumption of fact, and if such determination comes into inquiry before the court, it can not be overthrown by evidence only going to show that the fact was otherwise than as was found and determined. Here the question determined by the state board was the value of certain property; that determination can not be overthrown by the testimony of two or three witnesses that the valuation was other than that fixed by the board."

In *Maish* v. *Territory of Arizona,* 164 U. S., 599, thus court said, page 611:

"No assessment could be sustained if it depended upon the fact that all the parties thought the valuation placed by the assessing board was correct. Something more than an error of judgment must be shown; something indicating fraud or misconduct."

(C) Before appellee was entitled to have the assessment complained of enjoined it would have to show that it was free from laches and iniquity, and that it was willing to do equity. This appellee has failed to establish.

The rule is an elementary one that where a person comes into a court of equity seeking relief from a judgment that is rendered against him, he must show that the judgment rendered against him was inequitable and unjust; that that judgment did not result from any fraud or negligence on his part, and he must state the amount due upon the judgment, if any, and offer to pay the same. The determination of the amount of taxes due, when made by a board of assessors, partakes of the nature of a judgment, and he who seeks relief from such an assessment must show that he has complied with the above requirements. An examination of this record discloses that if there was anything unfair or unjust about the assessments levied against the appellee and the other corporations made defendants to the mandamus proceeding in the state court, the result was brought about through the misconduct and negligence of said corporations. We have already pointed out that the revenue act of the State of Illinois provides that appellee should make out and deliver to the county assessors a sworn statement, showing among other things "the market value, or if no market value, then the actual value of the shares of stock;" that the assessors should extend said state-

ment in the form of a schedule, and that such statement and such schedule should be turned over by the assessors to the county clerk and by him forwarded to the state auditor, and by said auditor placed before the Board of Equalization at its annual meeting; and further, that in case a corporation failed or refused to make such a statement, it should be the duty of the assessors to make up such schedule from the best information which they could obtain. The appellee and its five lessor corporations did not make and deliver to the assessor any statements whatsoever (Transcript, 324). The Chicago Telephone Company and the Chicago Edison Company made statements (Transcript, 598) in which the blank calling for information with reference to the market value or the actual value of the shares of stock was not filled out. The Peoples Gas Light and Coke Company filed a statement which recited that neither the market value nor the actual value of the shares of stock was known (Transcript, 598). The Chicago City Railway Company filed a schedule in which it was stated (Transcript, 598-599) that the stock of that company had no fixed market value or actual value. The Consolidated Traction Company and its lessor corporations did not file any statements. It will thus appear that the Board of Assessors did not obtain any information from the corporations above named in reference to the value of their respective shares of stock, and therefore said assessors in compliance with the law made out schedules from the best information obtainable and transmitted said schedules to the State Board of Equalization (Transcript, 595-599). The conclusion is irresistible that the failure of the appellee and its lessor corporations and the other defendants to the mandamus suit, to give any information to the State

Board of Equalization in reference to the value of their respective shares of stock, was part and parcel of a scheme to escape with the payment of only a nominal assessment on their capital stock and franchises. This is borne out by the fact that the State Board of Equalization on December 3, 1900, made such a nominal assessment upon the capital stock and franchises of some of said corporations and omitted altogether to assess others. After this fraudulent and dishonest assessment had been made the appellee and its lessor corporations contributed towards paying the fee of John S. Miller, the attorney who appeared for the State Board of Equalization, both in the Circuit Court of Sangamon County and in the Supreme Court of Illinois, and defended the fraudulent assessments. It thus appears that the appellee and its lessor corporations wilfully and intentionally withheld the information from the State Board of Equalization, with reference to the value of their capital stock and franchises in order that they might escape their just share of taxation; that they connived and confederated with the State Board in defending the dishonest assessment after it had been made. A re-assessment under the order of the Circuit Court of Sangamon County made on November 22, 1901, was rendered necessary and resulted directly from dishonest and fraudulent conduct of the State Board of Equalization and that of the appellee and its lessor corporations. If that assessment is unfair or unjust to the appellee and its lessor corporations they must stand the consequences, and a court of equity will give them no relief because that unfairness and injustness was brought about through their own iniquitous conduct.

Again, before a court of equity will grant an injunction to restrain the collection of taxes on the

ground of excessive valuation and unfair discrimination on the part of assessors, complainant must distinguish by his bill of complaint the legal from the illegal part of the tax, and must actually pay the tax which is due; otherwise he is not entitled to relief.

Collins v. *Bank*, 101 U. S., 154.
Albuquerque National Bank v. *Perea*, 147 U. S., 87.
Trustee, etc., v. *Gunther*, 19 Fed., 399.
State Railway Tax Cases, 92 U. S., 616.
National Bank v. *Kimball*, 103 U. S., 733.

The bill of complaint in this case alleges (Transcript, 281) that the entire re-assessment made November 22, 1901, for the year 1900 is illegal and void, and prays for an injunction restraining the defendants "from collecting said taxes or any part thereof." Continuing, the prayer of the bill says

> "that if a part only of said taxes shall be found by this court to be illegal and void, the relief prayed against the whole of said taxes may be granted as to so much thereof as shall be found by this court to be illegal, and in such case your orator is ready and willing, and hereby offers to pay so much of said taxes as may be held by this court to be legal."

In *Albuquerque National Bank* v. *Perea*, 147 U. S., 87, this court affirmed a decree dismissing a bill of complaint seeking to enjoin the collection of taxes for the reason that the bill did not distinguish the legal from the illegal portion of the tax, and said:

> "With respect to the taxes of 1889, there was no payment or tender of payment of any amount. Plaintiff seeks to avoid the necessity therefor by alleging that it is impossible to separate the legal from the illegal portions of the taxes; an

> allegation which is manifestly untrue in view of the fact that it had no difficulty in making the separation of the taxes of 1888, the assessment for which was made in a similar way; and in view of the further fact that it must have known what property it had which was subject to taxation, as well as its value, and therefore the rate of taxation being fixed by law, it could of course have known what amount was undoubtedly due. The rule in respect to this matter is perfectly well settled in this court."

In *State Railroad Tax Cases*, 192 U. S., 575, 616, the court said:

> "It is not sufficient to say in the bill that they are ready and willing to pay whatever may be found due; they must first pay what is conceded to be due, or what can be seen to be due on the face of the bill, or by showing by affidavit, whether conceded or not, before the preliminary injunction should be granted. The state is not to be thus tied up. If the proper officer refuses to receive a part of a tax it must be tendered and tendered without the condition attached of a receipt in full for all the taxes assessed."

The appellee has failed to make any tender, either in its bill of complaint or before the bill was filed, and under the foregoing decisions the bill is plainly insufficient for the purpose of giving any relief. It is true that the Circuit Court required certain sums to be paid into court pursuant to a rule which the court laid down (Transcript, 3) under what it designated as the capitalization plan, but as we shall hereafter point out in this brief, that system of arriving at the fair cash value of the capital stock and franchises of appellee, was contrary to the law laid down by the statutes of the State of Illinois as those statutes had been interpreted by the decisions of the Supreme Court of Illinois and of this court.

IV.

THE EVIDENCE SHOWS THAT APPELLEE OUGHT TO PAY $774,833.97 MORE THAN IT WAS REQUIRED TO PAY BY THE ORDER OF THE CIRCUIT COURT.

Even if we assume that the Circuit Court had jurisdiction of this cause, that appellee has established the allegations of its bill by competent evidence, that the re-assessment for the year 1900 was illegal and void, and that the Circuit Court had the power to make a re-assessment, then appellee was only entitled to the following relief:

First: To receive credit for the $373,447.25 paid on the original assessment.

Second: To have its capital stock and franchises assessed at 70 per cent of its actual cash value instead of at 100 per cent, which latter sum it is claimed the State Board of Equalization used as the basis for its assessment.

The only theory on which the appellee came into the Circuit Court was that it had been discriminated against by the assessing officers of the State of Illinois, and denied by those assessing officers, the right to have its property assessed at the same rate and upon the same basis that the other property of the state was assessed for the same year.

The Circuit Court, instead of giving to appellee the equal protection of the laws, discriminated in favor of the appellee in the method of assessment adopted and gave to the appellee and the other corporations who were defendants to the mandamus suit, exemptions from taxation not enjoyed by any other person or corporation throughout the state for the same year. The discriminations made by the Circuit Court in favor of appellee, by means of which it was permitted to evade the payment of the greater share of its taxes, even on the assumption that the

allegations of its bill of complaint were true, resulted from the fact that the Circuit Court ignored the rules for assessing the capital stock and franchises of appellee and its lessor corporations, which had been approved, both by the Supreme Court of Illinois and by this court, and adopted a novel method of its own, known as the capitalization plan.

We shall make two fundamental criticisms upon the assessment made by the Circuit Court upon the capital stock and franchises of appellee and its lessor corporations for the year 1900.

First: The capitalization method of assessment adopted by the Circuit Court was illegal, unfair, and directly contrary to the statutes of the State of Illinois, as those statutes had been interpreted both by the highest court of the state and by this court.

Second: There is no competent evidence tending to sustain the assessment made by the Circuit Court, even upon the assumption that the court had a right to ignore the laws of the State of Illinois and adopt a plan of assessment different from and contrary to those laws.

We will consider the above propositions in the order indicated.

(A) The rules of the State Board of Equalization, under which all other corporations were assessed for the year 1900, required that the market value or the fair cash value of the corporation's shares of stock should be added to its debts (excluding indebtedness for current expenses) and that the aggregate should be the fair cash value of the capital stock and franchises of such corporation. The Circuit Court ignored the cash value of the stock of appellee and its lessor corporations altogether, and capitalized the alleged net income at 6 per cent (taking such net income from certain lump

sums shown by the Company's books), and by this means placed so insignificant a valuation upon the capital stock and franchises of appellee that it was permitted to escape the payment of the greater share of its taxes for the year 1900.

It will be noted that the two rules above set forth for assessing the capital stock and franchises of a corporation are wholly different. Under the rule adopted by the Circuit Court, if a corporation has no net earnings for the "fiscal year covering April 1, 1900," then it would not have to pay any tax on its capital stock and franchises. Under the rule adopted by the state board, if the corporation's stock was valuable in the market, the fact that it happened to have no net earnings for the particular year would not exempt it from the payment of a fair capital stock and franchise tax. Under the rule adopted by the Circuit Court, if the officers of a corporation should embezzle or squander its money and in that way eliminate its net earnings, the loss would fall upon the state and no capital stock and franchise tax could be collected. Or, if through negligence or other mismanagement of the corporate managers, the net earnings should be reduced to a nominal figure, the corporation would escape the payment of substantially all its capital stock and franchise tax, even though such reduction in the net earnings of the corporation would not materially reduce the market value of its stock.

Again, the rule of taxation adopted by the Circuit Court depends entirely upon the company's bookkeeping. The taxing officers of the state are concluded by the earnings, as shown by the company's books, for it is seldom that a taxing officer would have the time or the ability and industry to discover

that a corporation had a net income greater than what was shown by the company's books.

We will not enter into any discussion as to the merits or demerits of the respective methods of taxation, for we shall demonstrate from the Statutes of the State of Illinois, the decisions of its Supreme Court, and the decisions of this court, that the rules adopted by the State Board of Equalization, and in force for the year 1900, were valid and binding and that if the Circuit Court had any power at all to make an assessment, that power existed solely for the purpose of giving to the appellee and its lessor corporations the equal protection of the laws. An assessment made by the Circuit Court would have to be made under the same rules and in accordance with the same methods that the taxing officers of the State of Illinois used in assessing the capital stock and franchises of other corporations of the state for the same year.

The Revenue Laws of the State of Illinois, in plain terms, and as construed by the highest court of the state, always aim for taxing purposes to get at the fair cash value of property. Such fair cash value is defined, as being the price the property would bring, at a fair voluntary sale. For instance, the Revenue Laws of the State of Illinois provide (Hurd's Revised Statutes of Illinois, 1899, chap. 120, sec. 3, par. 1): that personal property shall be valued "at its fair cash value"; (par. 2), credits for property shall be valued "at the current price for such property." Real property (sec. 4, par. 1) shall be valued "at its fair cash value, estimated at the price it would bring at a fair voluntary sale"; "leasehold assets (par. 2) shall be valued at such price as they would bring at a fair voluntary sale for cash"; buildings (par. 3) should be valued "at

such price as they would sell at a fair voluntary sale for cash"; real estate (par. 4) on which there is a mine or quarry shall be valued at such price as the property "would sell at a fair voluntary sale for cash." The capital stock and franchises of corporations are required to be valued (sec. 3, par. 4) "at the fair cash value of said capital stock, including franchises, over and above the assessed value of the tangible property of such company or association."

The oath required to be taken by assessors under the Statutes of Illinois (Hurd's Revised Statutes of 1899, p. 1446, sec. 4) requires the assessor to swear that he will "appraise all property in said county at *its fair cash value, said value to be ascertained at what property would bring at a voluntary sale in due course of business and trade.*"

Construing the foregoing statutory provisions we must conclude that when the state board is required to assess the capital stock and franchises of corporations at its "fair cash value," the board is necessarily required to assess it at what the stock would bring "at a fair voluntary sale" on the market.

It will be noted from the foregoing statutory provisions that the fair cash value of property, that is to say the price it would bring at a fair voluntary sale, is the standard fixed by the Statutes of the State of Illinois, by which to value all kinds of property for taxation.

The Revenue Act, from which we have quoted, was enacted by the State of Illinois in the year 1872, and there is no indication in any of the taxing laws of the state that the Legislature intended to tax *net incomes*, but on the contrary, the Revenue Laws of the state show clearly and conclusively that *market values* were adopted as the basis on which to value all property for taxing purposes.

Shortly after the Revenue Law was enacted the State Board of Equalization adopted rules for ascertaining the fair cash value of the capital stock and franchises of corporations, and those rules provided (Trans., 331) "that the board should take the market or fair cash value of the shares of capital stock and the market or fair cash value of the debt" (excluding indebtedness for current expenses), and the aggregate should be held to be the fair cash value of the capital stock and franchises of the corporation.

It will be noted that these rules treat the market value of the stock as the standard from which the capital stock and franchises of corporations are to be determined. Under the rules adopted by the State Board of Equalization, if the market value of the stock, and debts of a corporation, exceed the value of its tangible property, then the corporation is required to pay a tax on its capital stock and franchises, even though the corporation may not have derived any net income from its business for a number of years prior thereto.

Under the rule adopted by the Circuit Court, no capital stock and franchise tax could be collected under such circumstances. The court said, concerning the re-assessment complained of (Trans., 1275):

> "The re-assessment of each of the complainant corporations for the year 1900 is a close approximation to the aggregate of its indebtedness and its stock value as measured by the stock market quotations for April 1, 1900."

We shall hereafter point out that as a matter of fact the State Board of Equalization, in the re-assessment complained of, valued the stocks of the corporation in question a great deal less than the market value on that day.

In 1876, only a few years after the Revenue Law of 1872 was enacted, the construction of the very rules for assessing the capital stock and franchises of corporations now under consideration, came before this court in what is known as the *State Railroad Tax Cases,* 92 U. S., 575. The rules here under consideration were there vigorously assailed and for the very reasons which induced the Circuit Court to disregard them, and adopt a method of his own. In the *Tax Cases* it was contended that the market quotations were not the true criterion of the value of stocks and bonds, but that the capital stock and franchises of corporations should be assessed only on net incomes. This court, in denying the efficacy of the above contention, said, concerning bonds and mortgages:

> "The parties who deal in such bonds are generally keen and far-sighted men and most careful in their investments, hence the *value which these securities hold in the market* is one of the truest criterions, as far as it goes, of the value of the road as security for the payment of these bonds."

In denying the efficacy of the contention that the capital stock and franchises of corporations should be based on net income, and that where there was no net income, there should be no tax, this court said:

> "The system adopted by the Statute of Illinois, and the rule of the Board of Equalization, preserve this principle of taxing all the tangible property at its value, and taxing the capital stock and franchise at their value, if there be any, after deducting the value of the tangible property. The case of the *Toledo, Peoria & Warsaw Company*, as we have said, is used as an illustration of the inequality which this rule works, and which counsel say is forbidden

by the Constitution of the state, thus rendering the tax assessed against it, void. That company is insolvent, and in the hands of a receiver. It is unable to pay any interest on its bonds. Its capital stock is of no value. But the Board of Equalization assessed the capital stock and franchise at $2,003,415, and its tangible property at $2,629,367, *thus assessing a property which pays but little, if anything, beyond its running expenses, at the sum of $4,632,782.*

"This sounds plausible, but is nothing more. Concede for the present that the capital stock is sunk and is of no value; concede that the funded debt of the company has at present no market value, or is unsalable; there remains what is valued as worth over $2,600,000 of real and personal property, which, like all other property of individuals or corporations, ought to pay its proportion of the public burdens. *There also remains the value of the franchise, which is not destroyed by the circumstance that the road does not pay interest on its debt.* Does anybody believe that this debt is of no value; that the holders of it attach no value to this franchise? Are they willing to give up the right to operate the road, to receive freights and fares, to endeavor to make it pay something more than the mere value of the personal property of the track, the depots, the grounds, the rolling stock, and other tangible property? Is it supposed by anyone that they intend or will ever sell these separately or apart from the right to use them as a railroad? Why do not the bondholders sell all these things under their mortgage at auction as a man would sell town lots and household furniture, and horses and carriages? The reason is too clear to escape observation. It is because in the case of the railroad there is attached to all this property, and goes with it, a privilege, a right to use it through the whole extent of the richest counties of Illinois, in transporting persons and

property, in a manner which adds immensely to its value when considered as so much iron, so much land and so much personal property. By virtue of this privilege or franchise, this is all aggregated into a unit, well adapted to make money by its use in that way, with a chartered right to use it for that purpose.

"*It is this franchise which the Legislature of Illinois intended to tax, which it had a right to tax; and in taxing it committed no injustice, if it was fairly assessed, though the corporation which holds it may be so utterly bankrupt that it must necessarily pass from it into other hands.* In those hands, disembarrassed of its overweight of debt, who shall say that it is not worth $2,000,000? And who shall say that such is not the real value now of this franchise?"

Take a case where the franchise to operate a street railroad has some market value, but through the fraud or negligent management of the directors and officers of the corporations, the corporation gets no net income, under the rule announced by the Circuit Court, the owner of the franchise would not have to pay a tax. Under the rules of the State Board of Equalization in force during the year 1890, as interpreted by the Supreme Court of Illinois, which interpretation was expressly approved by this court in the *Railroad Tax Cases*, just quoted from, the owner of such a franchise would have to pay a tax upon the fair cash value of such franchise and such a fair cash value would be what remains of the aggregate fair market value of the stock and indebtedness after deducting the fair cash value of the tangible property.

All of the property of the State of Illinois, real, personal and mixed, is taxed upon its fair cash market value, regardless of whether the property yields any net income. From a legal standpoint, property

is but a bundle of rights, namely, the right of its possessor to use and enjoy the thing possessed, to the exclusion of every one else in the community.

Why should the owner of a valuable franchise be exempted from paying a tax on the fair market value of that franchise, merely by showing that the franchise yielded no net income? And why should the owners of all other property, real personal, mixed, and even choses in action, be compelled to pay a tax based on the fair cash market value of their respective properties, regardless of whether those properties yield any income?

In *Adams Express Company* v. *Ohio State Auditor,* 166 U. S., 185, the legality of an assessment made against the capital stock of the Express Company pursuant to the laws of the State of Indiana was before this court, and Mr. Justice Brewer, delivering the opinion of this court, said (page 222):

> "But what a mockery of substantial justice it would be for a corporation, whose property is worth to its stockholders for the purpose of income and sale, $16,800,000, to be adjudged liable for taxation upon only one-fourth of that amount. *The value which property bears in the market, the amount for which its stock can be bought and sold, is the real value.* Business men do not pay cash for property in moonshine or dreamland. They buy and pay for that which is of value in its power to produce income, or for purposes of sale."

This court further said (page 225):

> "In conclusion let us say that this is eminently a practical age; that courts must recognize things as they are and as *possessing a value which is accorded to them in the markets of the world,* and that no fine-spun theories about situs should interfere to enable these large corporations, whose business is carried on through many

> states, to escape from bearing in each state such burden of taxation as a fair distribution of the actual value of their property among those states requires."

If the Circuit Court of the United States had the power to exercise the functions of the State Board of Equalization and to assess the capital stock and franchises of the appellee and its lessor corporations, the court should at least have placed upon the capital stock and franchises of the appellee the "value which is accorded to them in the markets of the world," and no "fine-spun theories" about the capitalization of net incomes should have been applied in such a way as to enable these corporations to escape the payment of their fair proportion of the burdens of public taxation.

In *Walker* v. *People,* 192 Ill., 106, the rule is also laid down that in fixing the valuation to be placed upon the capital stock of a corporation for the purpose of taxation, the question is what that stock would bring at a fair voluntary sale in the open market, and it was held that the quotations from the Chicago Stock Exchange were competent evidence for the purpose of proving such a valuation.

In *National Bank of Commerce* v. *New Bedford,* 175 Mass., 257, it was held that where a statute required the stock of a corporation to be assessed at its fair cash value, the quotations of the Stock Exchange were the best evidence of what constituted such fair cash value. Justice Holmes, in delivering the unanimous opinion of the Supreme Judicial Court, said (page 262):

> "Generally speaking, when a statute requires the 'fair cash value' of property on a certain day to be ascertained (Pub. Sts., Ch. 13, Par. 8), it refers to the actual judgment of the public

> as expressed in the price which some one will pay, not to what the court at a later time may think would have been a wiser opinion. It means the highest price that a normal purchaser, not under peculiar compulsion, will pay at that time to get that thing."

It was also held in the case under consideration that the market value of the stock should not be determined by entering into a calculation of the assets and liabilities of the corporation. On this point the court said (page 262):

> "But it appears to us that the excess of assets over liabilities is of no importance for that purpose, as it throws no light whatever upon the selling prices of the stock. There was sufficient evidence upon which to form an opinion of the selling price, defined as we have defined it, without the need of resorting to such indirect methods of getting at it, and therefore the attempt to divert the inquiry into a wrong channel was met properly enough by a rejection of the evidence."

It was claimed by appellee that the market value of its shares of stock for the purpose of taxation should not be determined by what the stock brought at a voluntary sale on the market, in the ordinary course of business, but at the price which all of the stocks would bring if it was dumped upon the market at the same time.

Courts have uniformly held that the value of stock is determined by voluntary sales of such stocks on the Exchange, in transactions made in the usual course of business, and not by the depressed market which would be occasioned by the dumping of all the stock upon the market at the same time. This precise question was before the Supreme Court of Illinois in the case of *Walker* v. *People,* 192 Ill., 106,

which involved the determination of the question as to how the value of stock should be determined for the purposes of taxation. The court there said (p 109):

> "As we understand the position of counsel for appellants, it is that the market price of these stocks should have been fixed at the market price as it would be on a certain day, in case the entire holdings were forced upon the market, and a forced sale of the same was made without regard to the actual value of the stock per share, or the ordinary method of doing business in reference to handling, purchasing or selling the same. We are unable to concur in the correctness of this view. * * * The very fact that the market would be depressed by forcing large blocks of stock upon it and forcing such large blocks of stock to sale, indicates that such a sale is not a proper test of the fair cash value of the stock."

In *In re Gould's Estate*, 46 N. Y. Sup., 506, the court thus disposed of a similar contention:

> "It is claimed, however, that the rule should be so construed that, when the value of large blocks of stock is involved, only the purchase and sale in markets of corresponding large blocks of stock should be considered, upon the theory that such large blocks would necessarily sell at lower rates than small quantities of stock sold separately, and that throwing large blocks of stock upon the market all at once would have a tendency to produce a break in the market, and perhaps a total inability to get more than a mere nominal price offered for that stock. * * * Under the construction contended for, the securities involved in this proceeding might have been shown to be of little or no value, by considering that forcing them upon the market in large blocks at one time would break the market, and make them practically unsalable at all,

> The rule adopted by the appraiser was the correct rule, and he apparently applied it properly in determining the value of the large amount of securities belonging to the decedent's estate."

We have argued the case thus far as though the Circuit Court was free to adopt the method of determining the value of the capital stock and franchises of appellee, which, in its judgment, was the better one. It is unnecessary to remind this court that the only question before the Circuit Court was whether the appellee was denied any privilege guaranteed to it by the 14th Amendment. This court distinctly held in the *State Railroad Cases, supra*, not only that no right guaranteed to corporations under the 14th Amendment was invaded by taxing the capital stock and franchises of corporations according to its market value, regardless of net income, but this court went even farther, and expressed its approval as an original proposition, of the equality and justice of such a system of taxation.

The Circuit Court, in arriving at the amount of the additional tax to be paid by appellee and its lessor corporations for the year 1900 followed the computation made by the Master. The Master, in turn, adopted the figures and computation furnished him by the company's expert. The computation of the Master was as follows (Trans., 28):

> "The amount of additional taxes to be paid by the complainant herein as aforesaid, is the sum of $134,350.03. This amount is arrived at by the computation and figures appearing in complainant's Exhibit 5 to the testimony herewith returned, which I find to be supported by the testimony."

Turning to Exhibit 5 we find the following:

"Earnings applicable to interest, rentals and taxes, as shown by statement already in evidence	$ 2,443,071.93
Deducting additional expense items as shown by the evidence	77,728.92
Earnings before deducting taxes	$ 2,365,243.01
Full tax	373,447.25
Net income	$ 1,991,895.76
Capitalized at 6%	33,198,262.67
Equalized at 70%	23,238,783.87
1.5 for assessed value	4,647,756.77
Extending tax at 8.035	373,447.25
Deducting tax already paid	239,097.22
Leaving to be paid under the decision of the United States Circuit Court	$ 134,350.03"

The only complaint made by appellee is that its capital stock and franchises and that of its lessor corporations were assessed for the year 1900 at one-fifth of their full cash value, while the property of all other persons and corporations throughout the state for the same year was assessed at one-fifth of 70 per cent of its value, thereby imposing an unequal burden of taxation upon the appellee and its lessor corporations, which constituted the taking of their property without due process of law and the denial to them of the equal protection of the laws, in violation of the 14th Amendment.

It would appear, then, that the Circuit Court would have discharged its full duty according to appellee's bill had it reduced the taxes levied upon the appellee and its lessor corporations in such a way as to

relieve the appellee and its lessor corporations of the difference between the taxes extended on one-fifth of a full valuation and the taxes extended on one-fifth of a 70 per cent valuation. Instead of doing this, the Circuit Court, in ignoring the method of valuing the capital stock and franchises of corporations, used by the State Board of Equalization, and in adopting the novel scheme of its own, not only relieved the appellee and its lessor corporations of the alleged excessive taxation, which they complained of, but reduced the taxes to be paid by appellee and its lessor corporations far below the amount that said corporations should have paid and far below the amount other persons and corporations were compelled to pay upon their properties during the same year.

Turning to the assessment made by the State Board of Equalization on November 22, 1900, it will be seen that the full value placed by the State Board of Equalization upon the capital stock and franchises of appellee's five lessor corporations for the year 1900 was as follows (Trans., 246):

West Chicago Street Railway Co.	$24,071,100	
North Chicago Street Railway Co.	18,208,000	
Chicago Passenger Railway Co.	1,740,000	
Chicago West Division	10,602,500	
North Chicago City Railway Co.	5,100,000	
Total exclusive of the capital stock of the Chicago Union Traction Company		$59,721,600

As these lessor corporations had no tangible property, the net assessment on the capital stock and franchises of said corporations is obtained by taking one-fifth of said full value.		
The full value of the capital stock and franchises of the Chicago Union Traction Company, as shown by the same assessment (Trans., 246) was.....	$10,600,000	
The equalized value of the tangible property of said company returned by local assessors was $2,090,630, and 5 times that sum makes the full value of the tangible property....	10,453,150	
This deducted from the full value of the capital stock and franchises, leaves as the full value of the capital stock and franchises of the Union Traction Company, required to be assessed		$ 146,850
Making the total full value of capital stock and franchises of the appellee and its lessor corporations ..		$59,868,450

Making an assessment of the capital stock of said corporations in accordance with the rules approved by this court in the *State Railroad Cases, supra,* we would get the following result:

Capital stock value as required by law	$59,868,450.00
One-fifth valuation upon which taxes are to be extended	11,973,690.00
Extending tax at .08035	962,086.00
Deduct tax paid on original assessment	52,902.00
Leaves	$ 909,184.00
Deduct tax assessed by U. S. Cir. Ct.	134,350.03
Tax yet due	$ 774,833.97

The above assessment results from taking 1/5 of the full value of the capital stock and franchises of the above corporations.

Should we assume that complainants' contention be sound, that 1/5 of 70 per cent of the full value of the capital stock and franchises of the appellee and its lessor corporations should be taken, then we get the following results:

Full value of capital stock, including franchise (C. U. T. Trans., 242)	$70,321,600.00
70% of that amount	49,225,120.00
1/5 of that amount, to make assessed value	9,845,024.00
Deduct equalized assessed value of tangible property (C. U. T. Co. Trans., 242)	2,090,630.00
Leaves net assessed value of capital stock	$ 7,754,394.00
Extend tax at 8.035	623,065.56
Deduct tax paid on original assessment	52,902.00
Leaves	$ 570,163.56
Deduct tax paid by order of U. S. Circuit Court	134,350.03
Leaves	$ 435,813.53

Being the tax remaining unpaid on complainant's own theory of equalizing the value of the capital stock by taking one-fifth of 70 per cent of the same.

(B) There is no competent evidence tending to sustain the assessment made by the Circuit Court, even assuming that the court had a right to ignore the method of assessment provided for by the laws of the State of Illinois and adopt a plan of its own, different from and contrary to the provisions of those laws.

The only evidence contained in this record in reference to the earnings of the appellee and its lessor corporations consists of the testimony of one Fred E. Smith, Auditor of the Union Traction Company and the Consolidated Traction Company. (Trans., 39.) He testified (Trans., 40) that the books were kept under his supervision, that he had figured from said books and prepared a statement, showing the net income of the appellee and its lessor corporations from July, 1899, to June 30, 1900, which statement the witness produced (Trans., 42), and concerning which statement the witness testified that the statement was "correct from the books." There was no evidence that Mr. Smith knew that the amounts set forth in said statements represented the actual receipts and disbursements of the appellee, but merely the statement of the witness that the figures produced by witness had been taken from the books.

The Circuit Judge himself did not regard these statements as of much probative force, for he said, concerning said statements (Trans., 1278):

> "In the absence of better data, I feel justified in accepting them for the purposes of this

motion, subject, of course, to any inquiry that may affect their accuracy."

But who was going to make the inquiry concerning their accuracy? Surely, the appellants were not called upon to produce evidence of the accuracy of the books of account of appellee. The statement produced by the witness Smith was clearly incompetent and did not tend to prove any fact in this case. Even had the books themselves been produced they would have been incompetent.

It is a familiar rule of law that books of account of a party are not evidence except of charges made by the creditor against the debtor when they stand to each other in the relation of plaintiff and defendant. When a question of fact is at issue between the parties in a court, and that question does not involve the relation of debtor and creditor, such a fact cannot be proved by a party's own books, for such books are merely the self-serving declarations of the party producing them, and are incompetent under familiar rules of evidence.

Woodes v. *Dennett*, 12 N. H., 510.
Little v. *Wyatt*, 14 N. H., 23.
Batchelder v. *Sanborn*, 22 N. H., 325.
Lassone v. *Boston & L. R. Co.*, 66 N. H., 345.
Juniata Bank v. *Brown*, 5 Serg. & R., 226.
McKenney v. *Waite*, 20 Me., 349.
Miller v. *Clark*, 5 Lans., 388.
Union Bank v. *Call*, 5 Fla., 409.
Jermain v. *Worth*, 5 Denio, 342.
Boyd v. *Yerkes*, 25 Ill. App., 527.
Minton v. *Underwood Lumber Co.*, 79 Wis., 646.
Holt v. *Pie*, 120 Pa., 425.
Eshleman v. *Harnish*, 76 Pa., 97.

The reason why books of account are admissible in evidence between persons sustaining the relation of debtor and creditor is that each party is presumed to become familiar with the books of account of the other by reason of their course of dealings.

No such rule applies where a book is offered in evidence for the purpose of proving a transaction having no relation to any dealings between the parties. There, the person against whom it is offered, has no knowledge as to the accuracy of that statement and no opportunity of acquiring such knowledge except by cross examining a witness who is familiar with the facts. Under the theory of assessment adopted by the Circuit Court one of the questions of fact to be determined was the net earnings of the appellee during the period in controversy. It was incumbent on appellee to prove the amount of those earnings by competent evidence. The company's books were merely the unsworn self-serving declarations made in its own favor. No witness was put on the stand who testified from personal knowledge in reference to the accuracy of the figures and hence the evidence was incompetent.

There is another reason why the testimony of the witness Smith and the statements produced by him failed to make out a case. Complainant's Exhibit 1 (Trans., 42) gives the total income of the appellee at $7,577,623.29 and the total expenses at $5,134,555.36. Among the items of expense is a statement "General Expenses, $1,119,962.07." Turning to page 44 we find what purports to be an enumeration of the items making up the aggregate of general expenses. Among other items we find: "Salaries, officers, $80,352.42"; "Salaries, clerks, $52,286.26"; "Expenses, $710,879.02." We have enumerated a few of the items for the purpose of indicating the

manner in which the statement is made up. There is no evidence in this record that any of the above items were reasonable and necessary expenses incurred by appellee, no evidence from any person professing to have personal knowledge on the subject to the effect that these items were actually paid out. All that we have is what purports to be a summary of certain figures taken from the company's books.

In *Chicago & G. T. R. Co.* v. *Wellman*, 143 U. S., 339, this court held that the production of figures of the general character here under consideration without any testimony from witnesses showing how the expenses were disbursed and their necessity and reasonableness, was insufficient upon which to base a decree, and said (p. 345):

> "It is agreed that the defendant's operating expenses for 1888 were $2,404,516.54. Of what do these operating expenses consist? Are they made up partially of extravagant salaries; fifty to one hundred thousand dollars to the president, and in like proportions to subordinate officers? Surely, before the courts are called upon to adjudge an Act of the Legislature fixing the maximum passenger rates for railroad companies to be unconstitutional, on the ground that its enforcement would prevent the stockholders from receiving any dividends on their investments, or the bondholders any interest on their loans, they should be fully advised as to what is done with the receipts and earnings of the company; for if so advised, it might clearly appear that a prudent and honest management would, within the rates prescribed, secure to the bondholders their interest, and to the stockholders reasonable dividends. While the protection of vested rights of property is a supreme duty of the courts, it has not come to this, that the legislative power rests subservient to the discretion of any railroad corporation which may, by exorbitant and unreasonable salaries, or in

> some other improper way, transfer its earnings into what it is pleased to call 'operating expenses.'
>
> "We do not mean to insinuate aught against the actual management of the affairs of this company. The silence of the record gives us no information, and we have no knowledge outside thereof, and no suspicion of wrong. Our suggestion is only to indicate how easily courts may be misled into doing grievous wrong to the public, and how careful they should be to not declare legislative acts unconstitutional upon agreed and general statements, and without the fullest disclosure of all material facts."

Whether the "operating expenses" contained in this record were reasonable and necessary and were actually disbursed by appellee, is as much a matter of conjecture in the case at bar as it was in the *Wellman* case.

Turning to the remainder of the figures that go to make up this computation we find a like absence of any tangible evidence tending to sustain the conclusion arrived at. The Circuit Court directed the Master to make a computation of the net earnings of appellee for the fiscal year ending April 1, 1900, but no evidence was produced in reference to the net earnings for that fiscal year, but instead of that, the company produced figures tending to show its net earnings for the fiscal year ending July 1, 1900. There is nothing to show that the net earnings for the fiscal year ending July 1, 1900, were the same as the net earnings for the fiscal year ending April 1, 1900, and here, again, we must resort to a violent assumption instead of being guided by proof.

The gross income of the corporation (Trans., 42) is made out by the figures under consideration to be $7,577,623.29, the total expense $5,134,555.36, and the net income $2,203,974.71. Charged off against

the gross income are many figures which the evidence wholly fails to show are proper items to be deducted. For instance, there is an arbitrary deduction of 6 per cent for depreciation of the tangible property of the appellee, amounting to $561,895.71. There is no evidence in this record whatsoever, that after the payment of the very large expense account, in said statement set forth, that the property of appellee will not be worth as much as it was before.

In order that the court may reach the conclusion that the 6 per cent item for depreciation is correct, we must indulge in assumption upon assumption. In the first place there is no evidence that for the fiscal year ending July 1, 1900, there was any depreciation in the company's plant; and, in the next place, should we assume that there was such depreciation, how can the court adopt the arbitrary figure of 6 per cent.

Again, there is charged into the expense account two items, one for "maintenance, way & structures," $193,666.90, another "maintenance-equipment," $381,082.87, aggregating $574,748. There is no evidence in the record tending to show that after the expenditure of more than half a million during the fiscal year ending July 1, 1900, for maintenance and equipment that there was any depreciation in the company's plant. It may be for aught this record shows that the expenditure of the above items for maintenance, left the company's property in a better condition than it was before the fiscal year began. If so, charging off 6 per cent for depreciation was unfair and unjustifiable. After the court had obtained what it stated to be the true net income, this net income was capitalized at the arbitrary figure of 6 per cent. There was no evidence upon which to base the capitalization at 6 per cent.

The court reached the conclusion that 6 per cent was equitable from the fact that the net earnings on the preferred securities yielded throughout the land on the average 5 per cent and the common securities 7 per cent, and averaging the two would make 6 per cent. Here, again, there was no evidence upon which to base the court's inference and the inference was unquestionably erroneous. Railroad securities did not, during the year 1900, yield a net return to investors of 6 per cent.

(C) The decree of the Circuit Court was also inequitable and unfair in that it permitted appellee to pay the additional taxes of $134,350.03 on July 1, 1902, without paying any interest on the same.

The taxes levied for the 1st of April, 1900, became delinquent under the laws of the State of Illinois on the 1st of May, 1901, and taxes then remaining unpaid drew interest at the rate of 1 per cent a month.

The appellee, by failing to furnish any statements to the State Board of Equalization of the value of the capital stock and franchises of its lessor corporations, and by assisting said board in attempting to maintain its first assessments, which was expressly held by the State Supreme Court to be fraudulent and void, is legally responsible for the delay in the making of the second assessment. Now that appellee has invoked the aid of a court of equity, it is required to do equity. Equity requires that appellee pay its just burden of taxation and interest at the rate of 5 per cent on that amount from the time it should have been paid to the collecting officers. Appellee had the use of that money from the 1st of May, 1901, up till July 1, 1902, and no reason has been or can be suggested why it should not recompense the state in that regard.

A mere casual examination of the figures produced by appellee, and the deductions drawn therefrom by the court, demonstrates beyond controversy that the assessment made by the court rested almost entirely upon vague and indefinite speculation and conjecture.

If the system of making corporate assessments adopted by the court should be put into universal practice, the amount that corporations would have to contribute to the state, in the shape of taxes, would depend entirely upon their own system of bookkeeping.

The Legislature of the State of Illinois has for obvious reasons of public policy, made the fair market value of corporate securities the true criterion upon which to base valuations for taxing purposes.

A perusal of the novel scheme of assessment put into operation by the Circuit Court, and an examination of the startling results arrived at in the cases under consideration, only tends to emphasize the wisdom of the rule of this court to the effect that the valuations placed upon property by the taxing officers of a state never present a federal question unless those valuations are so grossly exorbitant that they amount to a confiscation of the property.

We respectfully submit that the assessment made by the Circuit Court cannot be defended on any sound theory of either law or justice.

JAMES HAMILTON LEWIS,
Corporation Counsel of the City of Chicago;
DAVID K. TONE,
Special Counsel for said City;
HARRY A. LEWIS,
County Attorney of Cook County;
WILLIAM F. STRUCKMANN,
Assistant County Attorney of said County;
WILLIAM H. STEAD,
Attorney General of the State of Illinois;
GEORGE B. GILLESPIE,
Special Assistant Attorney General of said State;
Solicitors for Appellants.

Office Supreme Court, U. S.
FILED.
DEC 11 1906
JAMES H. McKENNEY,
CLERK.

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, A. D. 1906.

No. ~~424~~ 115

SAMUEL B. RAYMOND, County Treasurer of Cook County, Illinois, et al.,
Appellants,

vs.

CHICAGO UNION TRACTION COMPANY,
Appellee.

COPY OF FINAL DECREE.

Appeal from the Circuit Court of the United States for the Northern District of Illinois.

IN THE CIRCUIT COURT OF THE UNITED STATES,
NORTHERN DISTRICT OF ILLINOIS,
EASTERN DIVISION.

Chicago Union Traction Company,
Complainant,
against
Samuel B. Raymond *et al.*,
Defendants.
} In Equity.
26,609.

DECREE.

Record.

This cause came on to be heard further at this term, and was argued by counsel, and thereupon upon consideration thereof,

IT IS ORDERED that all objections and exceptions to the Master's Reports be and the same are hereby overruled, and that the Master's Reports and each of them be and they are hereby approved and confirmed; and the court finds that all of the material allegations of the bill of complaint are sustained by the evidence and that the equities of the case are with the complainant; and thereupon the court doth ORDER, ADJUDGE AND DECREE AS FOLLOWS:

That the assessment made by the State Board of Equalization of the State of Illinois at its session in
1716 1901, against the complainant, the Chicago Union Traction Company upon its capital stock for the year 1900, amounting to .....$ 29,370

And upon the capital stock of The North Chicago City Railway Company, amounting to 1,020,000

And upon the capital stock of the North Chicago Street Railroad Company, amounting to 3,641,600

And upon the capital stock of the Chicago West Division Railway Company, amounting to	2,120,500
And upon the capital stock of the West Chicago Street Railroad Company, amounting to	4,814,220
And upon the capital stock of the Chicago Passenger Railway Company, amounting to	348,000
Such assessments in the aggregate amounting to	$11,973,690,

was made under the coercion and influence of a writ of mandamus issued by the Circuit Court of Sangamon County in the State of Illinois and did not represent the real and independent judgment of the State Board of Equalization, and that the assessments made by the State Board of Equalization at its meeting held in 1901 upon the capital stock of said complainant, and upon the capital stock of the said corporations hereinabove referred to (being lessor corporations of said Chicago Union Traction Company), and upon the capital stock of the other corporations named in the writ of mandamus above mentioned, for the year 1900, were in fact made upon a materially different basis from that upon which the capital stock of all other corporations of the same class were assessed by the State Board of Equalization for the year 1900, and also upon a basis materially different from that upon which other tax-
1717 able property in the State of Illinois was assessed for the year 1900; that said assessment made in 1901 on the capital stock of the complainant and its aforesaid lessor corporations was made under the coercion and influence of said writ of mandamus

without the exercise or application of the judgment of the State Board of Equalization or the members thereof to the ascertainment of the value of said capital stock, and without the State Board of Equalization, either in fact or in form, taking into consideration the basis upon which all other taxable property in the State of Illinois was assessed and taxed for the year 1900, and without in fact or in form equalizing the value or assessment of the capital stock of the said complainant for the year 1900 with all or any of the assessments made upon the other taxable property in the State of Illinois for the year 1900, with the result that the said assessment on the capital stock of complainant and upon that of its aforesaid lessor corporations made in the year 1901 for the year 1900, was made on a much higher basis than that upon which the other taxable property of the State of Illinois was assessed and taxed for the year 1900; and that such assessment upon said capital stock for the year 1900 was and is unjust and inequitable; that the making of such assessment as aforesaid in 1901 upon the capital stock of the said complainant and upon that of its aforesaid lessor corporations and the extension of the taxes thereon and the attempt to enforce the payment of the taxes so extended from complainant and from its aforsaid lessor corpora-
1718 tions, was and is a violation of the Fourteenth Amendment to the Constitution of the United States, and that the attempt to enforce the collection from said complainant and from its aforesaid lessor corporations of the taxes extended on said reassess-

ment will, unless restrained, result in a multiplicity of suits.

An order was entered herein on the twenty-eighth day of June, 1902, as a condition precedent to the granting of the temporary relief prayed for in the bill of complaint herein that complainant should pay in addition to the taxes already paid upon the first or original capital stock assessment for the year 1900, the further sum of $134,350.03, making a total capital stock tax to be paid by the complainant for 1900 of $187,252.03, which is found and decreed by the court to be all that complainant and its aforesaid lessor corporations should equitably be required to pay as a capital stock tax for the year 1900. Said additional sum of $134,350.03 has been paid by complainant to the County Treasurer of Cook County in accordance with said order, making the total amount paid by complainant as taxes upon its capital stock and upon the capital stock of its aforesaid lessor corporations for the year 1900, the said sum of $187,252.03.

IT IS THEREFORE FURTHER ORDERED, ADJUDGED AND DECREED that the said assessment of $11,973,690 on the capital stock of the complainant and on the capital stock of the aforesaid lessor corporations of complainant made by the State Board of Equalization in the year 1901 for the year 1900 and the taxes levied
1719 and extended thereon and now spread upon the books of the tax collection agency of the County of Cook and State of Illinois for collection, be and they are and each of them is illegal, null and void, and that the defendants, Julius Solomon, Town Collector of the Town of North Chicago, and his successor

and successors in office as such collector, and Samuel B. Raymond, County Treasurer of Cook County, Illinois, and *ex-officio* County Collector of said County, his successor and successors in office as such County Treasurer and *ex-officio* County Collector, and the defendant, the City of Chicago, and each of them, and each and every of their respective agents, deputies, servants, attorneys and representatives be and they are and each of them is hereby perpetually enjoined and restrained from in any wise levying, or collecting or in any manner attempting, directly or indirectly, to levy or collect or to enforce against the complainant, or against any of its property, or against the aforesaid lessor corporations of the complainant, or against any of their property or the property of either of them, said tax or taxes, or any or either of them or any part thereof.

It is further adjudged that the costs be paid by 1720 complainant.

P. S. Grosscup.

FILED.
APR 9 1907
JAMES H. McKENNEY,
CLERK.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, A. D. 1906.

Nos. 424 and 430.

SAMUEL B. RAYMOND, COUNTY TREASURER OF COOK COUNTY, ILLINOIS, AND EX OFFICIO COUNTY COLLECTOR OF COOK COUNTY, ILLINOIS; JOHN J. HANBERG, HIS SUCCESSOR IN OFFICE, AS SUCH COUNTY TREASURER AND COUNTY COLLECTOR, ET AL., APPELLANTS,

vs.

CHICAGO UNION TRACTION COMPANY AND CHICAGO CONSOLIDATED TRACTION COMPANY, APPELLEES.

APPEALS FROM THE CIRCUIT COURT OF THE UNITED STATES FOR NORTHERN DISTRICT OF ILLINOIS.

SUMMARY OF ARGUMENT FOR THE CHICAGO UNION TRACTION COMPANY AND THE CHICAGO CONSOLIDATED TRACTION COMPANY.

WM. W. GURLEY,
ARTHUR DYRENFORTH,
ISAAC M. JORDAN,
Of Counsel for Appellees.

JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D. C. 26081

SUPREME COURT OF THE UNITED STATES.

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CHICAGO UNION TRACTION COMPANY AND CHICAGO CONSOLIDATED TRACTION COMPANY, APPELLEES.

APPEALS FROM THE CIRCUIT COURT OF THE UNITED STATES FOR NORTHERN DISTRICT OF ILLINOIS.

Summary of Argument for the Chicago Union Traction Company and the Chicago Consolidated Traction Company.

The decree appealed from restrains the collection of a tax; and is based upon the proposition that but for the decree the collection of the tax would have deprived the appellees of their property without due process of law, and would have denied them the equal protection of the laws.

The State of Illinois, through its State Board of Equalization, under a mandate from the Circuit Court of Sanga-

mon County, affirmed by the Supreme Court of the State, entered, for taxing purposes, a valuation of appellee's capital stock, including their franchises, that in the case of the Union Traction Company amounted to over $70,300,000, and in the case of the Consolidated Traction Company amounted to over $19,000,000—nearly $90,000,000 altogether—when the real value of the properties, as a whole, determined by capitalizing their net earning capacity at 6 per cent., amounted in the case of the Union Traction Company to but a little over $33,000,000 and in the case of the Consolidated Company to but a little over $2,300,000, or about $35,000,000 all told. This would seem to show, that by the fault of somebody, somewhere, appellees had suffered a substantial wrong. Indeed, if this assessment is sustained, appellees will be compelled to pay, in addition to taxes already paid upon the valuation of their property according to its net earning capacity, a sum that will amount to nearly a million and a quarter of dollars.

The State Board of Equalization that made this valuation is both the initial and the final assessor of capital stock and franchises taxes, there being no appeal from its assessment, in course of the taxing process provided by law, to any other authority in the State. The wrong done, therefore, and complained of by appellees, has been done by the State through its final assessing agency, the State Board of Equalization.

The valuation thus put upon the property of these appellees by this board did not, in this instance, represent the "judgment" of the board. The "judgment" of the board as expressed for the same year, but by a previous order, and as expressed within four weeks subsequently for the subsequent year, but respecting the same property, and as expressed through the individual testimony of its members in the circuit court, was shown to be in each case less than one-half of this amount. The assessment, instead of expressing the real judgment of the board, was the fictitious action of the board; formally entered, it is true, as if it were the judg-

ment of the board, but entered under stress of the mandate of the State court, as the mandate of the court was interpreted by the members of the board, and contrary to their own judgment—action that in every respect meets the definition of this court in the recent Nebraska tax cases, as "a scheme and agreement" (that is to say, a scheme and agreement to fulfill the mandate of the State court without putting into execution the judgment of its own members), as distinguished from the "judgment" of a quasi-judicial body.

Upon these facts the general question presented by this case is this: Does the excess tax brought about by this excess valuation, entered under these circumstances, constitute a case of depriving appellees of their property without due process of law, and denying to them the equal protection of the laws?

The case thus stated—and every item of this statement is supported fully by the proofs, as is disclosed by the more elaborate arguments herein filed—differs from the case of Barney *vs.* City of New York (193 U. S., p. 430) in this: In the Barney case the action of the Rapid Transit Commission sought to be restrained was not simply irregular, and contrary to law—it was wholly unauthorized by the State—was wholly in pursuance of a power that had already been exhausted; while in the case at bar the act restrained, though irregular and in some respects contrary to the law, *is* within the general authority given the board by the State—that is to say, is in pursuance of a power conferred by the State, and ordered by the mandate of the Supreme Court of the State.

The case differs from the case of The Railroads *vs.* The Treasurers of Adams and Douglas Counties, Nebraska, decided by this court February 25, 1907, in this: In the Nebraska case the members of the State Board of Equalization, or "some of them, used their own judgment, and their own knowledge, of which they could give no very good account on cross-examination, but which they had a right to use," in making up the valuation; while in the case at bar the

Board of Equalization did not use its own judgment or its own knowledge—did not pretend to use its own judgment and own knowledge. In the Nebraska case the cross-examination of the members was intended to disclose, not that they did not come to any "judgment," or that they were driven to an order that did not express their own judgment, but that, consciously believing that they were exercising their own judgment, they were being influenced by "political duress;" while in the case at bar the evidence, both of the members and of the circumstances surrounding the transaction, clearly shows that there was no exercise of the board's judgment at all, and no attempt to exercise its own judgment—that the action of the board, though formally entered as if it were the judgment of the board, was, in effect, not its judgment, but its registration simply of what it took to be the judgment of the State circuit court.

The case in principle is like Reagan *vs.* Farmers' Loan and Trust Company (104 U. S., 362). In that case the court held that the action of a "commission"—the executive hand of the government established by the State for the purpose of fixing rates—was an act of the State within the fourteenth amendment, and enjoined the enforcement of an order "unfairly" made by that commission as depriving the persons affected of their property without due process of law, and denying them the equal protection of the laws. A *posteriori* an assessment made by a board—also a hand of the government authorized to make such assessment, and without any right of appeal therefrom—is the depriving of the parties affected of their property without due process of law, and the denying to them of the equal protection of the laws, in a case such as this, where the board not only does not fairly exercise its discretion (the way the Chief Justice characterizes the action of the commission in the Regan case), but exercises no discretion or judgment of any kind that is its own, or that it professes to be its own.

Let these points be stated with a little greater elaboration. We have said that the State Board of Equalization in Illinois is the last body in the taxing process; that the action of that board, so far as the laying of a tax on capital stock and franchises and the equalization of their taxes goes, is final and supreme; that when the board has spoken the State has spoken, and the word thus spoken is the final word of the State on the subject until and unless some judicial power, State or national, is invoked. In support of this we have only to quote the language of the Supreme Court of Illinois (Porter *vs.* Railroad, 76 Illinois, 561): "However much, therefore, we may think the board erred in its valuation, no power is given to us to arrest the collection of the taxes on that account. The board was fully empowered by law to make this particular assessment and had jurisdiction over the property and the corporation for that purpose." And "in fixing the valuation of the property the State board acts judicially."

That the valuation upon this property, by this body, of ninety millions of dollars, fifty-five million dollars in excess of any valuation based on net earnings (fixed upon these appellees a liability to pay one and a quarter million in addition to the tax already paid on a valuation based on net earnings) is not the judgment of the board, but is the registration simply of the board's interpretation of the State court's judgment, is evidenced by the fact that four weeks later the same board, composed of the same men, fixed a valuation for the same properties, though for the following year — no mandate of the court being then upon them to interpret and follow — that cut this valuation 100 per cent., bringing it very close to the figures fixed by the circuit court of the United States, based upon the capitalization of the net earnings of the company; and also by the testimony of the members of the board that in their judgment the assessment of 1901 (the one just spoken of) "was all right," while the assessment of 1900 (the one complained of) "was all wrong" (Record,

113); as also their judgment that had they deviated from the direction of the State court, they would not have satisfied the court (Record, 158). Indeed, there was no contrary testimony, though one member of the board was called by the appellant and was examined. And it may be proper to state, as a matter of public knowledge, that within the past few months, in fixing the price at which the city of Chicago might upon six months' notice purchase the entire property belonging to the Union Traction Company, tangible and intangible, that price was fixed and accepted by all parties, not at seventy millions, nor even at thirty-three millions, but at twenty-nine millions of dollars.

Unlike the Nebraska case recently decided, the testimony of the members of the board contained in this record was not an attempt by cross-examination to uncover the reasons on which a judgment honestly entered was based, as, for instance, to interrogate a juror as to why he returned a verdict, or a judge as to why he had entered a decree, both juror and judge insisting that the verdict and decree were the result of honest judgment. The testimony of the members of the board, in this case, is analogous rather to the case of taking a juror's affidavit that the verdict to which he affixed his name was not in truth and fact his verdict or the verdict of the jury; that the verdict was returned only because the jury was threatened with personal harm and inconvenience unless they consented to the verdict returned, the juror testifying of his own volition to the facts thus stated. Besides, in the mandamus case, the Supreme Court of Illinois expressly held that the members of the board were competent witnesses (191 Illinois, 551), and predicated its judgment that the previous assessment was fraululent, partly upon the fact that, though competent witnesses, the members of the board were silent—a silence that in the mandamus case aided in bringing about the state of things upon which the wrongful order now complained of was rendered; a silence that if the contention for silence is sustained here,

will be utilized again, but this time to prevent the wrong that it brought about from being redressed.

A valuation thus entered—a valuation that is not the judgment, and professedly is not the judgment of the last body in the State that has power to consider and enter it—is not due process of law, or the granting of the equal protection of the laws. Before a judicial body due process of law implies, as said by Mr. Webster in the Dartmouth College case—

> "A law which hears before it condemns; which proceeds upon inquiry and renders judgment at the trial;"

and by Mr. Choate in Fall Brook Irrigation Company *vs.* Bradley, (154 U. S., 150):

> "The spirit of the constitutional rule is that they shall have real bread in the matter of a hearing, and this would put them off with nothing but a stone;"

and by Judge Grosscup, in the court below:

> "The prime quality in every judgment, without which it is no judgment, is that it is the final thought of the judge on the subject submitted, unaffected by extrinsic influences. This implies freedom of mind—not merely theoretically, but practically—the freedom of mind that does not fear, that has no wish of its own, that sees nothing not seen through the lenses of the law. Judgments honestly made up in such an atmosphere, though subject to review for error, are due process of law; judgments affected by fraud or fear, however solemnly entered, are as nothing when weighed by the constitutional guarantees thrown around liberty and property."

Nor is it an answer to all this to say that though the act that in this case was about wrongfully to deprive appellees of their property is the act of the last executive branch of the State that has the power to speak, it is not the act of the State

until the remedies afforded by the courts of the State, not as a part of the taxing process, but as an independent branch of the Government, have been exhausted. Reagan *vs.* The Farmers' Loan and Trust Company, *supra,* decides that the act of a "commission," in that case the executive hand of the State, was the act of the State to the extent that it deprived the parties affected of their property without due process of law; from which it follows that in that case the act of the commission was adjudged to have been within the constitutional prohibition of the fourteenth amendment—a conclusion that puts the case into the class of cases that "arise under the Constitution and laws of the United States," and therefore confers jurisdiction upon the courts of the United States just as fully as if there were diversity of citizenship. Upon this subject Judge Grosscup of the circuit court said:

> "Were there a right of appeal as a part of the taxing process from the State Board of Equalization to the courts that view might prevail. But no such appeal lies. The suit here is not to review the assessment, but to set it aside. The suit lies as surely in the United States courts (the necessary basis of jurisdiction existing) as it does in the State courts. It is in every sense a resort to the courts, national or State, to protect the party complaining from what otherwise would be the consummated act of the State."

The distinction between this case and the cases cited by appellants in *habeas corpus,* based upon the removal statutes, is that in the *habeas corpus* cases the acts complained of were well within the reviewing and revisory powers of the judicial tribunals of the State, the last word of the State in that department having not yet been spoken: while in this case, as in the Reagan case and other cases before this court the last word of the State has been spoken; and when a party is compelled to invoke the aid of a court to save himself from the wrongful acts of the State as about to be per-

formed through the executive department, he may go, of his own volition to that court, State or national, that the Constitution opens up to him.

Appellees Have Been Denied Equal Protection of the Law.

Cases which hold that a State legislature may classify and assess differently persons and corporations do not apply to this case. It is admitted that State legislatures may classify persons and property for taxation purposes in any way they please; but when that classification has once been made by the legislature, taxation must be equal and uniform among the classes and among the members of each class.

This is the mandatory prescription of the Constitution of the State of Illinois, as interpreted by the Supreme Court of that State (Porter *vs.* Railroad Co. and Law *vs.* People, 87 Ill., 405) and by this court (Railroad Tax cases, 92 U. S., 575).

This rule of equality and uniformity of taxation among the classes and in each class created by statute is a part of the law of the land. The fourteenth amendment creates no new rights, but guarantees against infringement by State action all the rights created and existing under the laws of the State.

An infringement by State action of the right under Illinois law to equal and uniform taxation among and in the statutory taxation classes created by Illinois law is an infringement of the guaranty of equal protection of the law under the fourteenth amendment, giving a jurisdiction to the Federal courts, especially so where there is a "scheme or agreement" on the part of the assessors to depart from that rule of uniformity and equality—a scheme or agreement that instead of entering their own judgment they will register merely the mandate of the State court, as they either correctly or mistakenly interpret that mandate (Nebraska Tax cases, Nos. 215 and 341 on the present docket).

The duty of the State board to *equalize* is a mandatory duty, and if the board's failure to equalize has resulted in a discrimination against the appellees, as members of a statutory class, they have been deprived of the equal protection of the laws.

That this failure to equalize has created a discrimination cannot be better shown than by turning to pages 899-907 of the record, where we find the list of all similar corporations assessed in 1900, above referred to.

All other like corporations assessable by the board were in that original assessment assessed under the same rules and on the same basis as these twenty.

The total net reassessment of the capital stock of these twenty corporations made pursuant to the mandate of the circuit court amounted to $32,733,457 (Rec., 1065-1069), or nearly fifteen times the total net assessment for that year, on the capital stock of the other 314 corporations.

This caused these twenty corporations to pay fifteen times as much, in proportion to the actual value of their property, as any other like corporation in the State.

The valuations adopted for the current assessment for the year 1901 represented the real judgment of the board, and the list of similar corporations taxed in the same manner for that year numbered 749. The total net assessment against all these, including these twenty-three companies, amounted to $21,477,943, or eleven million dollars less than the net reassessment against these appellees alone made the previous year pursuant to the writ of mandamus (Rec., 1121-1139).

In 1900 all corporations of the same statutory class as appellees were assessed under the same rule by the State Board of Equalization. In the mandamus case the Supreme Court held that said rule of assessment was invalid, because, for one reason, it did not take into consideration and add to the value of the outstanding capital stock the value of the indebtedness of the corporations, other than that for current expenses and improvements. There were 334 corpora-

tions of the same statutory class as appellees assessed; but the Supreme Court ordered a reassessment of only twenty thereof, to wit, the appellees in these seven appeals now before this court, and commanded a reassessment under an entirely different rule. Their bonds in this reassessment were assessed 1901 for 1900, whereas the bonds of the other corporations were not.

Assessing a portion of a class by one rule and the remainder of the same class by another rule is a discrimination.

While this court has never passed on this exact question, the circuit court and the Circuit Court of Appeals have flatly held that a failure to equalize assessments which results in one person or class to pay more than his or its proportional share of taxation is a denial of the equal protection of the laws.

County of San Mateo vs. Southern Pacific R. R. Co., 13 Fed., 722, was an action originally brought in the California State courts to recover from the Southern Pacific Railroad Company, a California corporation, certain taxes levied upon its property, and was removed to the Federal court on the ground of a Federal question having been raised.

On page 733 Mr. Justice Field there said:

> "The fourteenth amendment to the Constitution, in declaring that no State shall deny to any person within its jurisdiction the equal protection of the laws, imposes the limitation upon the exercise of all the powers of the State which can touch the individual or his property, including among them that of taxation. Whatever the State may do, it cannot deprive any one, within its jurisdiction, of the equal protection of the laws. * * * It is not possible to conceive of equal protection under any system of laws where arbitrary and unequal taxation is permissible."

See also *County of Santa Clara vs. Southern Pacific Railroad*, 18 Fed., 385, affirmed in 118 U. S., 394.

In Railroad & Telephone Companies *vs.* Board of Equalizers, 85 Fed., 302, the property of the complainants was assessed at its full value, while other property was assessed at not more than 75 per cent. of its actual value, and this was done by means of a rule of valuation adopted by the board.

The complainants contended that "the assessment is relatively out of proportion to the taxable value at which other species of property in the State are assessed, whereby the property of these companies is made to bear an undue proportion of the burdens of government, in violation of the Constitution of the State, and that they are deprived of equal protection of law under the fourteenth amendment."

On page 303 the court said:

> "An assessment of property which violates the provisions of a State constitution requiring uniformity of taxation, and which is a class discrimination, also deprives the owner of the equal protection of the law guaranteed by the fourteenth amendment."

In Nashville, etc., Co. *vs.* Taylor, 86 Fed., 168, which was a case almost identical with the preceding case, Judge Clark said, on page 186:

> "It may be true that the proposition that a tax statute or the tax laid under a statute is in violation of the constitution of the State, is not of itself necessarily sufficient to constitute a violation of the fourteenth amendment; but when, in addition to the violation of the State constitution, the statute results in an arbitrary and oppressive discrimination in regard to a large class of citizens, or a large species of property, it is such class legislation, and such denial of the equal protection as renders it obnoxious to the fourteenth amendment, and the State constitution is important in determining what the rights of the citizens are and whether equal protection of the law is being denied."

Louisville Trust Company *vs.* Stone, 107 Fed., 305, decided by the Court of Appeals, was a suit brought to enjoin the Board of Valuation and Assessment of the State of Kentucky from assessing the property of the complainant at more than 70 per cent. of the face value thereof, that being the value placed on all other property, whereas the complainant's property was taxed at its full value.

On page 305 Mr. Justice Day said:

> "It may be conceded that, if the allegations of the bill are made out, there exists in respect to the property of complainant and others similarly situated a systematic intentional and illegal undervaluation of the property by the taxing officers of the State which necessarily affects an unjust discrimination against the property of which the plaintiff is the owner, and bill in equity will lie to restrain such an illegal discrimination and in such cases Federal jurisdiction will arise because of the equal protection of the laws guaranteed by the fourteenth amendment."

The court in the above case mentioned with approval the decision of Judge Clark in Taylor *vs.* R. R. Co., *supra*, and said that the grounds of Federal jurisdiction are there carefully examined and fairly stated.

This court has decided cases which on principle are very like the case at bar, in regard to discrimination against national banks.

Section 5219 of the Revised Statutes of the United States provides that national bank stock may be taxed by the States, but that it shall not be taxed "at a greater rate than other moneyed capital."

The statute, while limiting the right of the State to put this particular kind of property in a class by itself for purposes of taxation, means nothing more or less than that the State shall not deny to national banks the equal protection of the taxing laws, and it has repeatedly been held by this court that the guaranty of equal protection, contained in

that act, is violated if any injurious discrimination results either from the State law itself or by the administration of a valid law.

National Bank vs. Kimball, 103 U. S., 732.

In *Stanley vs. Supervisors of Albany*, 121 U. S., 535.

San Francisco National Bank vs. Dodge, 197 U. S., 70, involved the right of the State of California to tax shares of national bank stock on a different basis than that on which State bank stock was taxed.

The agreed statement of facts showed that certain things entered into the valuation of national bank stocks which did not enter into the valuation of State bank stocks.

It was there expressly decided that though "no conflict necessarily arises between the Federal statute and a State law solely because the latter provides one method of taxation for State banks and another method for national banks, if there is no actual discrimination against the shares of the national banks resulting from the difference in method;" still, "if, irrespective of the face of the law, the system created by the State law in its practical execution produces an actual and material discrimination against national banks, it does conflict with section 5219, Revised Statutes of the United States, and is void."

Section 5219, Revised Statutes of the United States, is only applicable to national banks, and any method of making them pay more than their fair proportion of taxes is in conflict with that statute, whether the tax is the result of the law itself or of its administration.

The Constitution of Illinois is for the benefit of all citizens, and provides that there shall be equality of taxation; any statute of that State which failed in itself to produce equality would be unconstitutional, and, following the reasoning of the above cases, the administration of a law producing inequality would make its operation illegal and

would be the act of the State, even though the law itself was valid.

The act of the State of California was a denial of the equal protection of the tax laws of that State to the national bank, and therefore its act was unlawful, as being against the act of Congress, and the act of the State of Illinois in the administration of its laws by its officers denying to the appellees the protection of the constitutional requirement of equality was a denial to the appellees of the equal protection of the laws of Illinois, and is therefore within the prohibition of the Federal Constitution.

The Board of Equalization is by law ordered to equalize assessments. All other assessments were equalized on a uniform percentage of 70 per cent. or less, while appellees' property was assessed at its alleged full value, and this assessment was not equalized with other assessments. Therefore there has not been the same application of the law to the property of the appellees as was applied to all other property, and this discrimination in the application of the law has resulted in the appellees becoming liable, not only for a greater amount of taxes in proportion to the real value of their property than all others in the State, but also for a greater amount than they would have had to pay had the board equalized reassessments.

It is clear, therefore, that these appellees have been denied the equal protection of the laws, contrary to the provision of the fourteenth amendment.

Indeed, the upshot of this whole case is this: The State of Illinois, through its constitution and its legislature, has said to appellees and other taxpayers: "We will not take your property in the way of taxes except upon the 'judgment' of our State Board of Equalization as to its value, and upon the like 'judgment' of the board that such values are equal and uniform with the valuations put upon like classes of property throughout the State;" having said which the State, through an order entered by such board, and within

the board's general authority to enter, from which there is no appeal, does take property on a valuation that is not the "judgment" of the board, and does take property on a valuation that is not uniform and equal with other values of the same class, as determined by the "judgment" of the board; but in both respects is contrary to the judgment of the board. We submit that, unless guaranties of the law, thus broken in the performance, were not among the mischiefs the people had in mind to prevent, when they adopted the fourteenth amendment, it would be difficult to discover why that amendment was put into the fundamental law of the land.

Jurisdiction.

Jurisdiction of the Federal courts in cases of this kind depends upon whether or not a constitutional question is raised in good faith or not, and not on whether the facts, as they may ultimately turn out to be, make a case where there has in fact been a violation of constitutional rights.

The court has to take jurisdiction to decide that very question.

Were this not so, there would be no way of raising such questions, for one coming into this court would be met on the threshold with the claim that "there is no violation of the Constitution here;" and if the court could not take jurisdiction to decide that question, no constitutional question could ever be raised originally in a Federal court, unless the court had jurisdiction of the parties irrespective of the subject-matter.

City Railway Co. vs. Citizens Railroad Co., 166 U. S., 557.

Penn. Mutual Ins. Co. vs. Austin, 168 U. S., 685-695.

Coulter vs. Railway Co., 196 U. S., 599.

Pac. Elec. Ry. Co. vs. ——, 194 U. S., 112.

Louisville Trust Co. vs. Stone, 107 Fed., 305.

Nashville, etc., Ry. Co. vs. Taylor, 86 Fed., 168-178.

The allegations of the bill are clear and concise, and it surely cannot be said that they are fictitious and fraudulent, especially now that one of the Federal judges has considered the question favorably to appellees, and in view of the statement of the law in the above cases.

Appellants insist that there is no evidence to sustain this judgment, inasmuch as the only evidence to substantiate the allegations of the bill is the testimony of the individual members of the State Board of Equalization, and appellants claim that they are incompetent witnesses in that regard, the claim being made that such members cannot testify to the operations of their mind in making the assessments.

In support of this contention appellants cite: *Coulter vs. Louisville and Nashville Ry. Co.*, 196 U. S., 599, and The Nebraska Tax cases, decided by this court on February 25, 1907.

The rule laid down in these cases is not applicable to the case at bar, inasmuch as this case comes clearly within the exception to the general rule expressed in these cases, in that the assessments here complained of were made in pursuance of a scheme to overvalue the appellees' property.

In addition to this, appellees have not sought to prove the operations of the assessors' minds by which they arrived at the assessments, but to prove that they did not use their judgment at all in that connection, but blindly followed the supposed instructions of the Illinois circuit courts, and they were put on the stand to show an affirmative fact, viz, that they did not equalize the assessments of appellees' property with the assessments of other property throughout the State, as required by law.

WE THEREFORE RESPECTFULLY SUBMIT that the judgment of the lower court should be affirmed.

Respectfully submitted.

WM. W. GURLEY,
ARTHUR DYRENFORTH,
ISAAC M. JORDAN,
Of Counsel for Appellees.

IN THE

SUPREME COURT OF THE UNITED STATES,

OCTOBER TERM, A. D. 1906.

Samuel B. Raymond, County Treasurer of Cook County, Illinois, *et al.*, *Appellants*,
vs.
Chicago Union Traction Company, *Appellee.*
No. 424.

MOTION TO ADVANCE AND SET DOWN FOR HEARING.

Now come Samuel B. Raymond, County Treasurer of Cook County, etc., and John J. Hanberg, his successor, etc., and The City of Chicago, appellants in the above entitled cause, and move the court that this cause be taken up out of its order upon the docket of this court and be advanced and set down for hearing on some particular day of this term, to be fixed by this court.

In support of said motion, the said appellants beg leave to submit the following reasons:

First: It appears from the final decree in this cause (Original Record, page 1716, a printed copy of which final decree is filed herewith, pages 1 to 5) that the Circuit Court, by said final decree, perpetually enjoined an assessment on the capital stock and franchises of the complainant, made by the State Board of Equalization of the State of Illinois,

and aggregating $11,973,690, and the taxes levied pursuant thereto, and it therefore appears that the proceeding in the court below was one which enjoined the revenue officers of the State of Illinois from collecting an assessment made under the authority of the laws of the State of Illinois.

Second: It appears from the final decree in this cause, above referred to, that a question of momentous importance to the People of the State of Illinois, and a constitutional question of great importance in reference to the jurisdiction of a federal court to enjoin state officials from enforcing the revenue laws of the state is involved in this appeal.

Third: It appears from the final decrees entered in each of the seven causes that were heard together in the court below (printed copies of which final decrees are filed in each of the said respective causes), that all of said causes involve the same questions, and that by the action of the Circuit Court in enjoining the collection of the capital stock assessments made against each of said corporations, respectively, about $2,000,000 of the taxes levied by the State Board of Equalization of the State of Illinois for the year 1901 was perpetually enjoined, and that by reason of the vast sum of money so enjoined, and by reason of the importance of securing a speedy determination of the validity of said assessments, this cause should be advanced and heard out of its regular order.

HARRY A. LEWIS,
WILLIAM F. STRUCKMANN,
JAMES HAMILTON LEWIS, and
DAVID K. TONE,
Solicitors for Appellants.

Office Supreme Court, U. S.
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JAMES H. McKENNEY,
CLERK.

IN THE

Supreme Court of the United States

OCTOBER TERM, A. D. 1906.

No. 424/15

SAMUEL B. RAYMOND, County Treasurer of Cook County, Illinois, and Ex-officio County Collector of Cook County, Illinois; JOHN J. HANBERG, his Successor in office, as such County Treasurer and County Collector, et al.,
Appellants,

vs.

CHICAGO UNION TRACTION COMPANY,
Appellee.

Appeal from the Circuit Court of the United States, for Northern District of Illinois.

BRIEF FOR APPELLEE.

WM. W. GURLEY,
Of Counsel for Appellee.

ARTHUR DYRENFORTH,
HOWARD M. CARTER,
Solicitors for Appellee.

GUNTHORP-WARREN PRINTING CO., CHICAGO

IN THE

Supreme Court of the United States.

OCTOBER TERM, A. D. 1906.

No. 424

SAMUEL B. RAYMOND, County Treasurer of Cook County, Illinois, and Ex-officio County Collector of Cook County, Illinois; JOHN J. HANBERG, his Successor in office, as such County Treasurer and County Collector, et al., *Appellants,* *vs.* **CHICAGO UNION TRACTION COMPANY,** *Appellee.*	Appeal from the Circuit Court of the United States, for Northern District of Illinois.

STATEMENT OF FACTS.

In view of the omission from appellants' statement of certain facts appearing of record, which we deem essential to a clear understanding of the case, we have made the following statement of facts.

This is a suit brought to restrain the collection of the taxes extended upon a re-assessment of the capital stock of the Chicago Union Traction Company and its lessor companies made by the State Board of Equalization of the State of Illinois in the year 1901 for the year 1900.

In the year 1900, the State Board of Equalization

fixed the net assessment of the capital stock of the Chicago Union Traction Company (which included the capital stock of its lessor companies) for the year 1900 at the sum of $600,000. The taxes thereon, amounting to the sum of $52,902, were certified and extended according to law and, prior to the re-assessment first above mentioned and in due course, were paid by the Chicago Union Traction Company. In the fall of the year 1901 in supposed obedience to a decision of the Supreme Court of the State in a mandamus suit hereinafter mentioned, the State Board of Equalization made another assessment, or re-assessment, of the capital stock of Chicago Union Traction and its lessor companies for the same year 1900 and the taxes were extended thereon and it is this tax the collection of which is sought to be restrained in this suit. The State Board of Equalization in making said re-assessment determined the full value of the property of the Chicage Union Traction Company and its lessor companies to be $70,321,600. The tax extended thereon, the collection of which is herein sought to be restrained, amounts in round numbers to $962,086.

Under the laws of the State of Illinois, the tangible property, *i. e.*, the real and personal property of a street railroad company is assessed by the local assessors of the county in which the principal office of the company is situated. This assessment is certified to the State Board of Equalization, which sits at Springfield, the capital of the State of Illinois, in Sangamon County.

By the statutes of Illinois, in force at the time of the re-assessment complained of, the State Board of Equalization was given the power, among other things,

to assess the capital stock of certain Illinois corporations, including corporations of the class of appellee, and to ascertain and determine the fair cash value of such capital stock, including the franchise, over and above the value of the tangible property of such corporation. The board is authorized to adopt such rules and principles for ascertaining the fair cash value of such capital stock as to it may seem equitable and just, and such rules and principles, when so adopted, if not inconsistent with the Revenue Act, shall be as binding and to the same effect as if contained in the act; subject, however, to such change, alteration or amendment as may be found from time to time to be necessary by said board.

The method adopted by the board to determine the value of the capital stock (which, in fact, is all of the property of the corporation) is to find the fair cash value of the aggregate outstanding shares of the capital stock and to add thereto the amount of the indebtedness of the corporation other than that for current expenses and improvements, then to equalize that value at the percentage of value at which other property throughout the State is assessed; and then, for the purpose of determining the assessment, divide the result thus obtained by five (all property under the statute in Illinois being assessed upon the basis of one-fifth of its full value), whereby is obtained what is called the equalized "assessed value" of the capital stock. From this, of course, is to be deducted the "assessed" or one-fifth value of the tangible property, as determined by the local assessors and certified to the board. The result gives the so-called "net assessment of the capital stock over and above the assessed

value of the tangible property." The net assessment so obtained is certified to the Auditor of the State and by him in turn certified to the county collector, who extends the taxes thereon and delivers the duplicate tax books with the warrants attached to the county treasurer, *ex-officio* county collector, for collection.

It will be noted that the State Board of Equalization is the original assessor as to so-called capital stock assessments, and that it is the final assessor, no appeal lying to any other tribunal.

The statement on page 13 of appellants' brief that the statutes of Illinois, and the construction placed upon these statutes by the highest court of the state, require that the market value of property shall be the guide of the assessors is not accurate. The *fair cash value* is the object of the statute, and the market value is only one of many indicia of the fair cash value of the property.

In making these re-assessments, the State Board acted by its committee known as the Committee on Assessments of Capital Stock of Corporations. (Rec., 104.) Their practice is to let the committee determine the valuations and assessments, make a report, which is presented to and adopted by the whole board. In the instance of which complaint is herein made, the adoption was immediate, without consideration by the whole board, upon the recommendation of the committee. (Rec., 1070.) The Capital Stock Committee was composed of seven members in 1901. Of these seven members, four members, Messrs. Barnes, Martin, Cruttenden and Hirsheimer were called by and testified on behalf of the complainants below to the facts herein-

after referred to (Rec., 103 to 159) and one member, Mr. McKnight, was called by and testified on behalf of defendants below. (Rec., 300, 104, 1048.)

In the latter part of the year 1900, a crusade was inaugurated against corporations, and particularly against public utility corporations, for the purpose of increasing their taxes. As a part of this movement, certain school teachers in Chicago formed themselves into a so-called Tax Investigating Committee of the Chicago Teachers' Federation and appeared before the State Board of Equalization at its meetings in the fall of the year 1900 and before the original assessment for that year made against the appellee, and urged that the assessments for that year on the capital stock, including franchises, of certain public service corporations of Chicago (twenty-three in number, twenty-one of which are parties appellee to the appeals pending before this court) be made according to certain estimates of the value of such capital stocks, including franchises, as such teachers had prepared and presented to the State Board of Equalization. Without awaiting the action of the State Board of Equalization in reference to the assessment against appellee, or any other of the twenty-three corporations above mentioned, but assuming that the State Board of Equalization would not accede to their demands and make the assessments in accordance with their wishes, and on November 10, 1900, the State's Attorney of Sangamon County, on the relation of Catherine Goggin, one of said teachers interested in said movement, and one Robert C. Steel, a resident of Springfield, Illinois, and pursuant to a

resolution of said Teachers' Federation filed a petition for mandamus against the individual members of the State Board of Equalization, claiming and insisting that said State Board of Equalization intended not to value or assess the capital stocks, including franchises, of said corporations upon the basis of the fair cash value thereof, but intended to value and assess the same in such manner as to cause such corporations, and each of them, to pay no capital stock tax, and seeking to compel them to assess the various corporations named in their petition (among which was the appellee and its lessor companies) in accordance with the valuations set out in said petition. (Rec., 460.) None of said twenty-three corporations (including the appellee) were made parties defendant to this mandamus proceeding. Answer was filed on behalf of the members of the State Board of Equalization, averring that the State Board of Equalization was still in session and had not completed its work at the time of the filing of the petition, and denying all other allegations contained in said petition, and denying further that petitioners were entitled to the relief prayed for.

After the filing of this petition, for mandamus, and on December 1, 1900, the State Board of Equalization assessed the capital stock above mentioned, including franchises, of appellee at $600,000; and shortly thereafter, and during said month of December, said board finally adjourned its session for that year and the result of the assessment was duly certified according to law and the tax, which had been extended thereon, was paid by appellee prior to any further order or action in the mandamus proceeding. Afterwards, such proceed-

ings were had in the mandamus proceeding that final judgment therein was entered in favor of petitioners May 1, 1901. From this judgment appeal was taken to the Supreme Court of the State of Illinois, where the judgment of the lower court was affirmed on October 24, 1901, at which time the State Board of Equalization was engaged in its regular session for the year 1901.

The decision of the Supreme Court proceeded upon the theory that the assessment for the year 1900 was so low as to amount to a fraudulent assessment, and consequently was no assessment at all, and, therefore, approved the order of the lower court, commanding the State Board of Equalization to convene forthwith and value and assess the capital stock, including the franchises, of each of the above mentioned corporations as of April 1, 1900, in the manner provided by law, so as to ascertain and determine, respectively, as to each of said corporations, the fair cash value of the capital stock, including franchises, over and above the value of the tangible property of such corporations for the year 1900; and that, in arriving at such values and assessments of the capital stock, including franchises, of said companies, said board, and each member thereof, should from the best information obtainable by it and them ascertain and take into consideration, among other things, as to each of said corporations, as the same was on the first day of April, 1900, the market value, or if no market value, then the fair cash value of its shares of stock and the total amount of all its indebtedness, except the indebtedness for current expenses, excluding from such expenses the amount paid for the purchase or improvement of the property and the assessed or equalized valuation of all the tangible

property, respectively, on said April 1, 1900. The court said in its opinion that the lower court had not, by its order and judgment, undertaken to control the discretion or judgment of the State Board of Equalization in the valuation or assessment of the capital stock, including franchises, of said corporations, but that it only laid down the rules of law which govern and the methods which should be pursued by the State Board of Equalization in making such valuation and assessment. This the Supreme Court held to be proper.

The order of affirmance was filed in the lower court and the writ of mandamus issued on November 2, 1901, commanding the State Board of Equalization to assess the capital stock of the corporations therein named, including franchises, in the manner directed by the lower court, as above stated, and make return in what manner they had complied with it in twenty days. (Rec., 321.) The writ was served on the board on November 6, 1901. (Rec., 1059.)

Commencing with the fall session for the year 1901 of the State Board of Equalization, and pending the decision of the Supreme Court of the State, which it was assumed would be handed down at its October Term, 1901, and after the decision was rendered, the agitation in the matter of capital stock taxation, particularly of public utility corporations, became intensified.

Mass meetings were held in Chicago for the purpose of arousing public sentiment on the subject. (Rec., 619-621.) The board were constantly receiving petitions from the City of Chicago and elsewhere, with requests to assess the capital stock of corporations.

On October 16, 1901, Charles M. Walker, then corporation counsel of the City of Chicago, with whom were associated C. S. Darrow and I. T. Greenacre, representing various interests in the City of Chicago, addressed the board upon the subject of assessing the capital stock of corporations and the property of railroads in Cook County. (Rec., 1056.) On the 23rd of October, 1901, Carter H. Harrison, Mayor of Chicago, William Mavor and Edward S. Cullerton, aldermen of Chicago, and Henry S. Scofield, assistant corporation counsel, addressed the board on the subject of assessment of railroad property and capital stock of corporations. (Rec., 1057.) On the same day, Mr. Leopold Saltein, representing the Federation of German Societies of Chicago, and Margaret A. Haley, representing the Northwest Improvement Company of Chicago, addressed the board on the subject of assessing corporations and filed a petition and list of corporations presented by the Committee to the board. (Rec., 1057.) On October 29, 1901, a communication was received by the board from John F. Hanberg, a member of the committee of the Board of Cook County Commissioners, relating to the assessment of capital stock of corporations and railroads. (Rec., 1058.) On November 6, 1901, the board received a communication, together with printed memoranda of information as to twenty-three corporations in Cook County, from the Tax Investigating Commitee of the Chicago Teachers Federation, and on said day the writ of mandamus in the case hereinabove referred to was served upon the Chairman and Secretary of the board. (Rec., 1059.) On

November 12, 1901, Carter H. Harrison, Mayor of the City of Chicago, requested permission to the Chicago City Council to examine the reports of the Committee on the Assessment of Capital Stock of Corporations (Rec., 1060). On November 12, 1901, Martin B. Madden, representing the Manufacturers' Association of Illinois, and L. B. Boswell, representing the manufacturers' association of Quincy, Illinois, addressed the board upon the subject of the assessment of the capital stock of manufacturing and mercantile associations. (Rec., 1062.)

But it was not this public clamor alone which disorganized the board and made them believe that they were mere clerks in the execution of the mandate, but the attitude of the judge of the Circuit Court of Sangamon County was calculated still further to give them the idea that they were called upon only to value and assess the capital stock of these corporations according to the judgment, as they construed it, of the court, but not according to their own judgment.

After the service of the writ of mandamus upon the board, November 6, 1901, there remained only fourteen days in which to make the assessment on the corporations and to make specific investigation into the properties of said corporations. The board, therefore, desired an extension of time and, through its attorney, made application to Judge O. P. Thompson of the Circuit Court of Sangamon County for an extension of ten days within which to make the assessments commanded in the mandate. (Rec., 203.) This application was peremptorily refused by the court on or about the 18th of November, 1901, in such manner that

the board felt there was no room for the exercise of any judgment by the board, and they were given to understand by the court that there was no great amount of time needed for the board to perform its duty; that the court had decided that what was ordered in the writ should be done and the Supreme Court had affirmed the decision; all the talk about compilations, as to whether they should proceed on this line or that line, or consider this thing or that thing, this amount of percentage or that amount of percentage of valuations, was just so much to quibble about; the assessment could have been made before the application was made for an extension of time; it could have been made in a very short time after the writ issued; they should have taken up the assessments earlier in the session if they wanted to comply with the order of court and obey the law, and they must complete the work within the time fixed (Rec., 204 and 205); and all that the members of the State Board had to do was to get their pencils, a piece of paper and a candle or lamp and get to work. (Rec., 108, 132 and 156.)

On these various accounts, the State Board of Equalization was thrown into a panic. They felt they had no discretion in the matter of assessment as to valuations and as to the manner of making such assessment. They did not even dare to adopt rules for valuation, as by statute they are authorized to do, for the Supreme Court in the mandamus case had held the rules which they had adopted to be invalid and had, as they believed, prescribed the specific manner in which the assessment should be made. They were afraid to disobey the writ as they construed it in the

least particular, for disobedience would mean contempt of court and perhaps a sentence to jail, or at least public criticism and disgrace. (Testimony of members of the Capital Stock Committee, Rec., 103 to 159.)

On the 20th day of November, 1901, the Chicago Union Traction Company, appellee herein, anticipating that the State Board of Equalization would, under the conditions and circumstances above set forth, assess its capital stock at a grossly excessive value, filed its bill in the Circuit Court of the United States for the Southern District of Illinois to restrain the State Board of Equalization from making such assessment, and obtained a temporary restraining order enjoining them from making an assessment upon the capital stock of the Chicago Union Traction Company and its lessor companies until further order of court. This restraining order was served upon the board on the 20th day of November, 1901, together with notice of a hearing on the motion for a preliminary injunction to be had on November 22nd, the day for the return to the writ of mandamus. Such hearing was had on the morning of November 22nd, and at about 12:14 P. M., the motion was denied on the ground that the suit was premature, that the court should not enjoin state officers from performing their duties, and, on a preliminary hearing, override the presumption that they would perform such duties in the manner contemplated by law. 112 Fed., 607, 610. (Rec., 1068.)

Whereupon, with the greatest possible haste, fearing that the certification of the tax might be enjoined

(Rec., 115) the State Board of Equalization, at about 1 P. M., on the same day, hastily convened and adopted the report of its Capital Stock Committee, which had made an assessment of the capital stock of the Chicago Union Traction Company and its lessor companies upon figures presented by the counsel for the relators in the mandamus suit, at the enormous figure of $70,321,600 full value. (Rec., 1068 and 1069.) In order to relieve themselves from any danger of a further attack or check, they suspended their rule of procedure which provides that, upon presentation by a committee of a report, such report shall lie over two days for consideration by the board before adoption. Immediately, the board certified the assessment to the Auditor of Public Accounts and by resolution directed the Secretary of the State Board of Equalization to make return to the Circuit Court of Sangamon County of the action taken by the board in obedience to the writ of mandamus and to file in said court certified copies of the assessments made in pursuance thereof. (Rec., 1070 and 1071.)

In making these assessments, therefore, the members of the Capital Stock Committee of the State Board of Equalization (consisting of seven members) who made the assessments complainaned of, were constantly under the cross-fire of committees representing the people and the Chicago city law department and city council and various associations; the directions of the Supreme Court of the State of Illinois and of the Circuit Court of Sangamon County and of the judge thereof; and the injunctional orders of the Circuit Court of the United States for the Southern District

of Illinois. Their only desire was specifically to obey the instructions given by the Circuit Court of Sangamon County so as literally to satisfy the terms of the writ of mandamus and appease the popular cry for an increased assessment of the capital stock of corporations. There was no attempt or show of attempt on behalf of said Board of Equalization to examine into, ascertain and determine the fair cash value of the properties of these corporations, so re-assessed; and, under the circumstances, they completely lost their heads and made a tremendous overvaluation of the property. They were coerced into making an assessment which they themselves did not believe was a fair assessment and which they themselves assert was not made in the exercise of their judgment. (See reference to their testimony, *supra.*)

In making said re-assessment under the circumstances as above set forth,

(1) The State Board of Equalization acted arbitrarily and did not exercise its judgment.

(2) They failed to equalize the property re-assessed with the value of other property in the State.

(3) They selected a few corporations out of a class and proceeded against them alone.

(4) They re-assessed the properties at a valuation so grossly excessive as to be fraudulent.

(5) They did not consult the data and statement of valuations furnished by the companies assessed.

(6) They took their valuations from data in the record of the mandamus case and looked for advice to the attorneys for petitioners in that case. (See reference to their testimony, *supra.*)

(7) They gave no credit for the tax amounting to $52,902 paid upon the original assessment for 1900, made in the year 1900.

That the sole motive governing the members of the State Board of Equalization in making the so-called re-assessment of the capital stock, including franchise of appellee, was to place thereon a value that would satisfy the most radical views without making any deduction whatever, however necessary such deduction might be to a fair result, and by such course to escape further criticism and supposed liability to punishment for contempt of court, is demonstrated by the fact that the State Board of Equalization had originally assessed, in the year 1900, this identical capital stock including franchise, and the tax had been extended upon such assessment and collected, and the appellee had actually paid the amount of said tax $52,902 and the necessary result of this so-called re-assessment when carried into execution, whatever else may be said about it, was double taxation of the appellee to the extent of said amount of $52,902. The members of the State Board were taking no chances and were making no deduction, and were accepting no evidence. They were simply saying to the counsel representing the relators in the mandamus suit, that their wishes and not the judgment of the board should prevail.

The frightened and disorganized condition of the minds of the State Board, at the time they made their re-assessment in the year 1901 for the year 1900, is further emphasized by the facts appearing upon the face of the proceedings of the State Board within a month thereafter in relation to the assessment of the

same property for the year 1901 by the same board. On December 23, 1901, the State Board of Equalization adopted the report of the Capital Stock Committee of assessments made on corporations of the State of Illinois for the year 1901. (Rec., 1120 to 1170.) The net assessment of capital stock of appellee, including franchise, being excess of equalized value of capital stock and debt over tangible property, was fixed at the sum of $5,053,588 for the year 1901. (Rec., 1125.)

The following tabluation shows the striking divergence in the two assessments:

	Full Value of capital stock, determined by State Board.	Assessed value of capital stock, ¼ of full value.	Assessed value of tangible property.	Net Assessment, being excess of capital stock over tangible property.
1900 re-assessment, Nov. 22, 1901	$70,321,600	$14,064,320	$2,090,630	$11,973,690
1901 assessment, Dec. 23, 1901	$40,604,555	$ 8,120,911	$3,067,323	$ 5,053,588
Excess in assessments for 1900 by State Board over that for 1901 on the same property at practically the same time	$29,717,045	$ 5,943,409	.....	$ 6,920,102

$70,321,600 upon properties such as those operated and in control of the Chicago Union Traction Company whose rights of street occupancy, under ordinances of the City of Chicago and acts of the General Assembly, were expiring rapidly, many of the most important of which did expire within nineteen months after this re-assessment. All of whose rights, except a relatively small number of unimportant feeder or branch lines, were disputed by the City of Chicago; and, as this court knows from its records, that dispute was decided against the companies, to such an extent as to leave a dismembered system operated now only by suf-

ferance of the City of Chicago. *Blair v. Chicago,* 201 U. S. 400 and Mr. Fisher's testimony (Rec., 281-288). Mr. Yuille's testimony (Rec., 343-345).

$70,321,600 as the value of the properties of a corporation on the brink of insolvency, which within eighteen months after the re-assessment, on April 22, 1903, went into the hands of receivers. The receivership was brought about because it could not meet its obligations on account of the precarious condition of the franchise or ordinance rights and the hostile claims of the city in regard thereto. (*Blair* v. *Chicago,* 201 U. S., 400.)

$70,321,600 as the value of properties which the record in this case shows on the highest basis of calculation, to wit, the net income basis, were not, upon any reasonable hypothesis, worth more than $33,198,262 as the fair, full cash value. (Rec., 267, 95 and 42.)

$70,321,600 on properties as a re-assessment made one year after the original assessment for 1900, the taxes on which, amounting to $52,902, had been extended and paid by the company, the company in addition thereto having also paid taxes for 1900 upon its tangible real and personal property, amounting to $186,195.22. (Rec., 41,63,95.)

$70,321,600 as a re-assessment on the property of a corporation without giving it opportunity to be heard on the question whether or not it should or could be reassessed. It was not a party to the madamus case. (Rec., 321.)

$70,321,600 as the valuation of property which the board of 1901, within one month after the re-assessment of 1901, when the circumstances of the properties

had changed in no wise materially affecting the value, valued at $40,604,555—a reduction in one month of $29,717,045 upon the same properties.

In making the current assessment for 1901 the State Board of Equalization was a free agent. No such influences were brought to bear upon it as were brought to bear in making the re-assessment for 1900. Complete records of values and other information were furnished to said State Board of Equalization for the year 1901 (Rec., 1063) and the Board of Equalization proceeded in an orderly and judicial way, had hearings, heard arguments, consulted tables of valuations and other information in order to determine what they, in their judgment, believed to be a fair valuation of the capital stock of the corporations to be assessed.

That the action of the State Board of Equalization, a month after this so-called re-assessment, in determining the amount of the assessment of this identical capital stock, including franchise of the appellee, for the year 1901, was not an under valuation, is demonstrated by the fact that in this cause in the following Spring in order to enable the court to determine what was a fair valuation for the year 1900, testimony was taken before a master in chancery, and a report had showing that the full value of the capital stock of appellee including franchise, for the year 1900, was $33,198,262.67. Certainly no better evidence could be had that the State Board of Equalization in making the so-called re-assessment arbitrarily added many millions of dollars to the fair cash value of the property of appellee in order to protect itself and satisfy popular clamour.

Special consideration was given to the Chicago Union Traction Company and the Chicago Consolidated Traction Company and all of the property of the lessor and grantor companies of those two companies was assessed against the Chicago Union Traction Company and the Chicago Consolidated Traction Company, respectively. (Rec., 1119.) In making the re-assessment one month prior, a separate re-assessment was made against each of the respective lessor companies of the Chicago Union Traction Company and against each of the respective grantor and lessor companies of the Chicago Consolidated Traction Company. (Rec., 1069.) Their judgment was with reference to this assessment of 1901 that it was a fair, just estimate of the true value of the property assessed. (See reference to their testimony, *supra.*)

In making this second assessment the capital stock of the corporations assessed was equalized with the value of other property assessed throughout the State under a rule of said State Board of Equalization adopted on December 10th, 1901. (Rec., 1074.) The fact, however, that they did equalize at 70 per cent. does not entirely account for the tremendous discrepancy between these two assessments. The $6,920,102 is equivalent to about 58 per cent. of the $11,973,690. Only 30 per cent. was deducted in making the 1901 assessment for equalization. There is, therefore, 28 per cent. of overvaluation left after deducting the amount of equalization.

Two such tremendously divergent assessments as were made in 1901 within one month of each other could not possibly represent the real judgment of the

board, being made upon the same property and practically at the same time. The members of the Capital Stock Committee of the State Board of Equalization testify that the second did represent their judgment and that the first one did not represent their judgment. (See references to their testimony, *supra.*) The record also shows that the re-assessment for 1900 is more than double the highest possible fair cash value of the properties assessed. (Rec., 95, 264, 270, 343-345.)

The taxes on the re-assessment for 1900 amounted in round numbers to $962,086 and warrants therefor were in due course placed in the hands of the Collectors of Cook County in the Town of North Chicago. This tax was in addition to the taxes on the original assessment for $600,000 for 1900 made in the year 1900 amounting to $52,902 which had been paid and discharged in full by appellee. In making the second 1900 assessment no account had been taken and no credit given appellee on account of the fact that appellee had been taxed in 1900, and had paid that tax in full.

On February 14, 1902, the bill in this case was filed by appellee to restrain the collection of the taxes on the re-assessment for 1900. A hearing was had and the court below held that the re-assessment made by the State Board of Equalization in 1901 did not represent their real judgment; that the proceeding did not constitute due process and denied appellee the equal protection of the law; and that it was a gross overvaluation of the property.

The court also held, however, that the assessment of $600,000 made by the State Board of Equalization in 1900 for the year 1900, as had been held by the Su-

preme Court of Illinois in the mandamus case, was an under valuation. Therefore, as a condition precedent to granting a preliminary injunction, the court ordered a payment to the County Treasurer of a sum equivalent to what would be a fair tax based upon a fair valuation of the property, the rule for determining that value being announced in the opinion of the court. (114 Fed., 557.) This calculation of values was founded upon the capitalization of the net income of the corporation for the fiscal year which included April 1st, 1900, at six per cent., the full value of the capital stock of appellee, resulting therefrom being $33,198,262.67. The amount required to be paid to the County Treasurer under said order of court, to wit: $134,350.03 (Rec., 95), was paid by appellee in due course and a preliminary injunction granted. After a reference to a master and a final hearing the court made permanent the injunction and appeal was taken by defendants below to this court.

On the above facts, which are proved in the record, we insist that the re-assessments by the State Board of Equalization, and the taxes extended thereon against this appellee and its lessor companies for the year 1900 made in the year 1901 are illegal, discriminating, excessive, unequal, void and in violation of the Fourteenth Amendment to the Constitution of the United States in that they deprive appellee of its property without due process of law and deny to appellee the equal protection of the law.

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ARGUMENT

INTRODUCTORY.

We have divided the discussion of appellee's rights under the Fourteenth Amendment to the Constitution of the United States into three main branches:

First. That the acts herein complained of are the acts of the State;

Second. That the appellee has been deprived of its property without due process of law:

Third. That the appellee has been denied the equal protection of the law.

To avoid repetition, as far as possible, we have made a separate heading of the first proposition though all that is there said and all cases there cited are equally applicable, as far as the question of state action is concerned, to the matters considered under both the second and third headings.

Before discussing these matters, however, it is well to determine two preliminary matters, to wit: what is meant by jurisdiction of a federal court in a case arising under the Constitution of the United States, and what rights are guaranteed by the Fourteenth Amendment.

(1) Jurisdiction.

There seems to be confusion in the mind of counsel for appellants between questions of jurisdiction and questions on the merits. The jurisdiction of a court, federal or state, is not dependent upon the ultimate

decision of a question, but upon the power of the court to hear and determine the question. The propositions argued by counsel for appellants in their brief, as questions of jurisdiction, go to the merits of appellee's claims and not to the jurisdiction of the Circuit Court. They direct their argument. aside from questions relating to evidence, mainly to these two propositions, viz.:

(1) That the action complained of is the action of state officers, acting as individuals, without the sanction of the state; and

(2) That the matters complained of do not constitute a taking of property without due process, or amount to a deniel of the equal protection of the laws.

In the bill of complaint herein, we have shown a claim in good faith that appellee has property, a claim in good faith that it has been, or is about to be, taken, a claim in good faith that such taking is by the state through its duly appointed officers, acting for the state, and a claim likewise in good faith that appellee has been denied, by state action, the equal protection of the laws.

These two propositions advanced by appellants clearly involve a decision of the merits of the controversy and do not involve the power of the federal court to proceed to determine the controversy.

This court has clearly defined this distinction in the case of *City Railway Company* v. *Citizens' Street Railroad Company*, 166 U. S., 557. The application of the other provision of the Constitution, which provides that no state shall pass any law impairing the obligation of

contracts, was in issue. This court said, on pages 562 and 563:

> "There can be no doubt that the Circuit Court had jurisdiction of the case, notwithstanding the fact that both parties are corporations and citizens of the State of Indiana. It should be borne in mind in this connection that *jurisdiction depended upon the allegations of the bill and not upon the facts as they subsequently turned out to be.* The *gravamen* of the bill is that, under the Act of the General Assembly of 1861 and the ordinances of January 18, 1864, and April 7, 1880, the Citizens Railroad Company had become vested with certain exclusive rights to operate a street railway in the City of Indianapolis, either in perpetuity or for the term of thirty years or thirty-seven years, which the city had attempted to impair by entering into a contract with the City Railway Company to lay and operate a street railway upon the same street.
>
> All that is necessary to establish the jurisdiction of the court is to show that the complainant had, or claimed in good faith to have, a contract with the city which the latter had attempted to impair."

In *New Orleans* v. *New Orleans Water Works Co.*, 142 U. S., 79, this court expressed the rule as to its jurisdiction as follows, on page 88:

> "Before we can be asked to determine whether a statute has impaired the obligation of a contract, it should appear that there was a legal contract subject to impairment *and some ground to believe that it had been impaired;* and that to constitute a violation of the provision against depriving any person of his property without due process of law, it should appear that such person has a property in the particular thing of which he is alleged to have been deprived."

And again on page 87:

> "The bare averment of a federal question is not in all cases sufficient. It must not be wholly without foundation. *There must be at least color of ground for such averment,* otherwise a federal question might be set up in almost any case and the jurisdiction of this court invoked simply for purpose of delay."

The following cases are also in point:

Chicago Life Ins. Co. v. *Needles,* 113 U. S., 574-579;

Penn Mutual Life Ins. Co. v. *Austin,* 168 U. S., 685-695;

Nashville C. & St. L. R. R. v. *Taylor,* 86 Fed., 168-178;

Bank of Kentucky v. *Stone,* 88 Fed., 383-397;

Louisville Trust Co. v. *Stone,* 107 Fed., 305-309 (opinion by Mr. Justice Day).

We insist, in the language of Mr. Justice Day, in the case of *Louisville Trust Company* v. *Stone, supra,* where there was no diversity of citizenship, that the Circuit Court and this Court have jurisdiction in this case based upon a federal question which is fairly and not fictitiously raised, and that the jurisdiction of the Circuit Court and of this Court, having "properly attached, extends to the whole case and to all issues involved whether of a federal or non-federal character, and the Court has power to decide upon all questions involved."

This principle was similarly applied by this Court in the case of *Coulter* v. *Louisville and Nashville R. R. Co.,* 196 U. S., 599.

(2) THE FOURTEENTH AMENDMENT GUARANTEES THE ENFORCEMENT BY THE STATE OF THE RIGHT OF EQUAL PROTECTION AND DUE PROCESS OF LAW UNDER THE LAWS OF THE STATE.

The proposition of counsel for appellants in their brief, that equality and uniformity of taxation are not rights guaranteed by the Federal Constitution, and that the fact that equality and uniformity are guaranteed by the state Constitution deprives this court of jurisdiction. is an incorrect statement of the law on the subject. What the Fourteenth Amendment does is to guarantee the rights which every person has under the state laws against action by the state. If the equal protection of the law or the due process provided in the state laws is denied by the state, or through its agencies, the federal guaranty applies and relief may be had in a federal court. The amendment itself creates no rights, but merely guarantees the rights created and existing in the law of the land, which in this case is the law of the State of Illinois. Therefore, if equal protection is not given or due process is denied by the tax laws or the administration thereof, the federal court has jurisdiction.

In *In re Kemmler*, 136 U. S., 436, this court said, at page 448:

> "Protection to life, liberty and property rests primarily, with the states, and the amendment furnishes an additional guaranty against any encroachment by the states upon those fundamental rights which belong to citizenship, and which the state governments were created to secure."

In *Minor* v. *Happersett*, 21 Wall., 162, this court held that the clause of the Missouri Constitution con-

fining suffrage to male voters did not abridge the immunities of a woman citizen within the meaning of the Fourteenth Amendment. Suffrage was a matter of Missouri law. The Fourteenth Amendment created no new immunities or privileges; but simply furnished an additional guaranty of those which already existed by virtue of citizenship and a woman had no right to vote under Missouri law, or under the provision of the Fourteenth Amendment that all persons born and naturalized within the United States are citizens of the United States and of the state wherein they reside.

In *United States* v. *Cruickshank et al.*, 92 U. S., 542-554, this court said:

> "The Fourteenth Amendment prohibits a state from denying to any person within its jurisdiction the equal protection of the laws; but this provision does not, any more than the one which precedes it, and which we have just considered, add anything to the rights which one citizen has under the Constitution against another. The equality of the rights of citizens is a principle of republicanism. Every republican government is in duty bound to protect all its citizens in the enjoyment of this principle, if within its power. That duty was originally assumed by the states; and it still remains there. The only obligation resting upon the United States is to see that the states do not deny the right. This amendment guarantees, but no more. The power of the national government is limited to the enforcement of this guaranty."

We now take up in order, as questions on the merits, the three propositions first hereinabove referred to:

I.

THE ACTS COMPLAINED OF ARE ACTS OF THE STATE.

Appellants contend that the acts of the State Board of Equalization in making the assessment complained of did not constitute a violation of the guaranty of the Fourteenth Amendment, because, they say, no complaint is made of the Constitution and laws of the State of Illinois and the action of the State Board of Equalization was merely a violation of the laws of the State by the members of that board, and, therefore, a mis-or mal-administration of the laws by officers, as individuals, which is not attributable to the state itself and, therefore, not within the guaranty of the Fourteenth Amendment.

We concede that, in order to make out a case under the Fourteenth Amendment to the Constitution of the United States, it is necessary to show that the act which deprives the person complaining of his property is the act of the state; but the statement of the law advanced by counsel for appellants is altogether too narrow. It has been time and again held by this court and by the Circuit Courts and Circuit Courts of Appeals throughout the country that the prohibitions of the Fourteenth Amendment to the Constitution of the United States refer to all instrumentalities of the state—to its legislative, executive and judicial authorities and, therefore, whoever by virtue of public position under a

state government deprives another of any right protected by the amendment against deprivation by the state violates the constitutional inhibition and, as he acts in the name of the state and for the state, and is clothed with the state's power, his act is that of the state. Were that not so, the constitutional prohibition would have no meaning and the state would be placed in the position of having clothed one of its agents with power to annul or evade the Constitution of the United States. (*Ex parte Virginia*, 100 U. S., 339-347.)

C. B. & Q. R. R. v. *Chicago*, 166 U. S., 226;
Scott v. *McNeal*, 154 U. S., 34;
Regan v. *Farmers Loan & Trust Co.*, 154 U. S., 362;
Neal v. *Delaware*, 103 U. S., 370.
Coulter v. *L. & N. Ry. Co.*, 196 U. S., 599.
Williams v. *Mississippi*, 170 U. S., 213.
Chi Lung v. *Freeman*, 92 U. S., 275.
Soon King v. *Crowley*, 113 U. S., 703.
Arrowsmith v. *Harmoning*, 118 U. S., 194.
Yick Wo. v. *Hopkins*, 118 U. S., 356.
Railroad & Telephone Cos. v. *Board of Equalizers*, 85 Fed., 302;
Nashville C. & St. L. Ry. v. *Taylor*, 86 Fed., 168;
Taylor v. *L. & N. R. Co.*, 88 Fed., 350.
Louisville Trust Co. v. *Stone*, 107 Fed., 305.

(1) THE STATE BOARD OF EQUALIZATION, BEING THE SUPREME TAXING AGENCY OF THE STATE, ITS ACTION IS THE ACTION OF THE STATE.

The right to tax is an incident of sovereignty inherent in every government. The power can be exercised only by the state, through its appointed agencies. Taxes are enforced contributions by the state levied upon the property of an individual, by virtue of the state's sovereignty, for purposes of state government.

The State of Illinois, by virtue of its sovereignty, has established a system for the imposition of such contributions and appointed boards and officers as state agencies for its enforcement.

The constitution of the State of Illinois of 1870 provides in Article IX, Sec. 1:

> "The General Assembly shall provide such revenue as may be needful by levying a tax, by valuation, so that every person shall pay a tax in proportion to the value of his, her or its property—such value to be ascertained by some person or persons, to be elected or appointed in such manner as the General Assembly shall direct, and not otherwise."

Pursuant to their constitutional authority, the General Assembly passed the act known as the "Revenue Act" and entitled "An Act for the assessment of property and for the levy and collection of taxes." By that act the State Board of Equalization was created, its power granted and its duties defined. It is composed of one member from each congressional district in the state, elected as provided in the act, and the Auditor of public accounts.

The Auditor of public accounts is an officer cre-

ated by Article V of the Constitution of 1870, and a member of the Executive Department.

The duties of the Board in general are:

To equalize the value of real and personal property throughout the state in such manner "as may be deemed by the board to be equitable and just"; (Hurd's Rev. Stat. 1899, Chap. 120, § 107).

To assess the capital stock of each company or association incorporated under the laws of the State of Illinois (with certain specific exceptions, which do not include street railroad companies); (*Id.*, §§ 3, 32, 108).

To assess "Railroad Track" and "Rolling Stock" of general railroad companies; (*Id.*, § 109.)

To assess the capital stock of general railroad companies and of telegraph companies. (*Id.*, § Sec. 110.)

The State Board of Equalization, by reason of its creation by the legislature and the nature of its duties and powers is the supreme taxing agency of the sovereign state. It has the ultimate power to equalize the assessments made by local assessors, and is the only body having authority to assess the capital tock of corporations like appellee. It is the state in this regard and cannot act in any way except for the state. Whether an assessment is valid or void as it comes from the hands of the State Board of Equalization, if it is the act of the Board, assessed by them, spread of record, and certified as by law they are required to certify it, it is an assessment by the state, for the purposes of the

state and its several agencies. Unless declared invalid or superseded by appropriate action of a court of the state or of the United States, the state will by other officers, extend a tax thereon, and the state will enforce against the individual owner of the property covered by the assessment a contribution, for the purpose of state government, equal to the tax.

The collection of this contribution may be immediately enforced by the collecting officers, without further proceedings, by a levy upon the property, in all respects like an execution upon final judgment of a court; for the collecting officers have the power to distrain. (Hurd's Rev. Stat., Chap. 120, § 156.)

There is no appeal from the assessment made by the State Board of Equalization. Any redress, therefore, must be had in a collateral proceeding, such as the one from which this appeal is prosecuted.

It is not a mere ministerial or administrative body. Indeed its action in assessing property is not administrative at all. In a measure its acts are legislative, for it can prescribe such rules and principles for ascertaining the fair cash value of the capital stock of corporations, as to it may seem equitable and just, and such rules and principles when adopted, if not inconsistent with the act of its creation, are as binding and of the same effect as if contained in said act. (Hurd's Rev. Stat., Chap. 120, § 3, clause 4.) Its main powers are, however, judicial. It passes upon a record, hears arguments, considers, ascertains and determines values of property within its jurisdiction. And its judgment upon the record is supreme and final, as far as any appeal to a higher taxing tribunal is con-

cerned. Right or wrong, it is the state's last judgment by a taxing body in taxing matters.

In *Porter* v. *R. R. & St. L. R. R. Co.*, 76 Ill., 561, the Supreme Court of Illinois discussed the general subject of the nature of the functions of the State Board of Equalization, and said on pages 595 and 596:

> "However much, therefore, we may think the board erred in its valuation, no power is given to us to arrest the collection of the tax, merely on that account. The board was fully empowered by law to make this particular assessment, and had jurisdiction over the property and the corporation for that purpose.
>
> The law is well settled that assessors, in judging of the value of property, act judicially; and although they may err and assess it too high, this, of itself, will give a court of equity no jurisdiction to interfere and restrain the collection of the tax. In *Weaver* v. *Devendorf*, 3 Denio, 119, Beardsley, J., in delivering the opinion of the court, said: 'In some particulars the duty of assessors is undoubtedly ministerial; but, in fixing the value of taxable property, the power exercised is, in its nature, purely judicial. * * * The writ of *certiorari*, at common law, lies only to officers exercising judicial powers, and to remove proceedings of that character. (*The People* v. *The Mayor, etc.*, 2 Hill, 9-11. *In the matter of Mount Morris Square, etc., id.*, 14, 21, 22.) Yet all the authorities agree that this writ lies to remove an assessment.' To the same effect are also *Barlyte* v. *Shepherd*, 35 N. Y., 238; *Swift* v. *City of Poughkeepsie*, 37 *id.*, 511; *B. and St. L. R. R. Co.* v. *Sup'rs Erie Co.*, 48 *id.*, 105. And the same doctrine was recognized by this court in *Spencer et al.* v. *The People*, 68 Ill., 510.

This court has held that the Board of Equalization of Alabama is a quasi-judicial body in

Western Union Telegraph Co. v. *Gottlieb*, 190 U. S., 412.

In *Missouri* v. *Dockery*, 191 U. S., 165-170, this court held with reference to the State Board of Equalization of Missouri, a board whose statutory functions and powers are substantially the same as those of the same body in Illinois, that "Its judgment is final under the Missouri Constitution and statutes."

As to the question that such action of the board is the act of the state, it can make no difference in the assessment of capital stock whether the board acted erroneously or not, whether they exceeded their authority or not, whether they were mistaken in their judgment of values or not, or whether or not they wilfully disobeyed the mandates of the statutes—whatever their acts may have been, the state clothed them with power to assess the property assessed and they have assessed it in the name of the state, for the purposes of the state, acting as the supreme taxing agency of the state, and the state will take advantage of the act and appropriate as its own the resulting contributions from the taxpayer.

(a) THIS COURT HAS HELD THAT THE FINAL JUDGMENT OF A STATE SUPREME COURT IS THE ACTION OF A STATE.

In *C., B. & Q. R. R. Co.* v. *Chicago*, 166 U. S., 226, a street was opened across the railroad's right-of-way in Chicago. In the condemnation proceedings a verdict was returned granting $1.00 compensation; judgment was entered, and on appeal to the Supreme Court of Illinois the judgment was affirmed. On the federal question, by writ of error, the case was taken to this court.

The court said at pages 233-235:

"But it must be observed that the prohibitions of the amendment refer to all the instrumentalities of the state, to its legislative, executive and judicial authorities, and, therefore, whoever by virtue of public position under a state government deprives another of any right protected by that amendment against deprivation by the state 'violates the constitutional inhibition'; and as he acts in the name of the state and for the state, and is clothed with the state's power, his act is that of the state. This must be so, or, as we have often said, the constitutional prohibition has no meaning, and the state has clothed one of its agents with power to annul or evade it. * * * Its judicial authorities may keep within the letter of the statute, prescribing forms of procedure in the courts and give the parties interested the fullest opportunity to be heard, and yet it might be that its final action would be inconsistent with that amendment. In determining what is due process of law regard must be had to substance, not to form. This court, referring to the Fourteenth Amendment, has said: 'Can a state make anything due process of law which, by its own legislation it chooses to declare such? To affirm this is to hold that the prohibition of the states is of no avail, or has no application where the invasion of private rights is effected under forms of state legislation.' The same question could be propounded and the same answer should be made, in reference to judicial proceedings inconsistent with the requirements of due process of law. If compensation for private property taken for public use is an essential element of due process of law as ordained by the Fourteenth Amendment, then *the final judgment of a state court, under the authority of which the property is in fact taken, is to be deemed the act of the state within the meaning of that amendment.*"*

*Italics are ours.

And on pages 236-237:

> "The mere form of the proceeding instituted against the owner, even if he be admitted to defend, cannot convert the process used into due process of law, if the necessary result be to deprive him of his property without compensation."

And on page 241, this court further said:

> "Due process of law requires, first: the legislative act authorizing the appropriation, pointing out how it may be made and how the compensation may be assessed; *and, second, that the parties or officers proceeding to make the appropriation shall keep within the power conferred, and observe every regulation which the act makes for the protection or in the interest of the property owner, except as he may see fit voluntarily to waive them.** 2 Story Const., Sec. 1956.
>
> "In our opinion, a judgment of a state court, even if it be authorized by a statute, whereby private property is taken for the state or under its direction for public use, without compensation made or secured to the owner, is, upon principle and authority, wanting in the due process of law required by the Fourteenth Amendment of the Constitution of the United States, and the affirmance of such judgment by the highest court of the state is a denial by that state of a right secured to the owner by that instrument."

In *Scott* v. *McNeal*, 154 U. S., 34, Scott disappeared and was absent for over seven years. Upon a petition showing the absence letters of administration were issued and Scott's real estate was sold under order of court by the administrator. A few years later, Scott returned and brought ejectment on the ground that the probate proceedings were absolutely void and that no title passed;

*Italics are ours.

and that to hold such administration valid were to deprive him of his property without due process of law. The case was decided against him in the state courts and a writ of error brought it to this court.

This court unanimously reversed the state court. It was held that the probate court had jurisdiction only over estates of deceased persons and that Scott was not deceased, whatever might have been the legal presumption; that the interpretation given by the state courts to the statute relating to probate courts was erroneous and that plaintiff had been deprived of his property without due process; and the court did not in any way pass upon the validity of the statute itself. The only question in issue was the validity of the act of the court decreeing the sale under the terms of the statute. It was admitted that the probate court had power to grant letters and to sell property of deceased persons, but they must proceed duly in accordance with the statute, and that proceedings in any other manner were in contravention of the Fourteenth Amendment.

On page 45 of the opinion the court said:

> "These prohibitions extend to all acts of the state, whether through its legislative, executive, or its judicial authorities." (Citing cases.)

(b) THIS COURT HAS HELD THAT THE FIXING OF RATES BY A STATE RAILROAD COMMISSION IS THE ACT OF THE STATE.

Reagan v. *Farmers L. & T. Co.*, 154 U. S., 362, was a railroad rate case. Texas had passed a railroad rate act and established a commission, who, pursuant to the act, had fixed freight rates. The

Farmers Loan & Trust Co., trustee under a mortgage on the property of the International and Great Northern Railroad Company, filed its bill against the commission and other proper parties, seeking to enjoin the enforcement of the rates on the ground that they were unreasonable. An order of injunction and decree were entered below in favor of complainants. The case was begun in the Circuit Court of the United States and an appeal was taken to this court.

This court said (page 390-391):

> "We are unable to yield our assent to this argument. * * * Neither will the constitutionality of the statute, if that be conceded, avail to oust the Federal Court of jurisdiction. A valid law may be wrongfully administered by officers of the state, and so make such administration an illegal burden and an exaction upon the individual. *A tax law, as it leaves the legislative hands, may not be obnoxious to any challenge, and yet the officers charged with the administration of that valid tax law may so act under it, in the manner of assessment or collection as to work an illegal trespass upon the property rights of the individual. They may go beyond the powers thereby conferred, and when they do so the fact that they are assuming to act under a valid law will not oust the courts of jurisdiction to restrain their excessive and illegal acts**." * * *

Upon consideration of the merits, the court affirmed the holding of the lower court, that the rates were unreasonable, and restrained their enforcement. The action of the Commission, therefore, was held to be the act of the state.

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* Italics are ours.

The *Reagan* case is a direct authority in the case at bar. The railroad rates therein complained of were fixed by a commission, which exercised, by direct delegation, the state's power of fixing reasonable rates, as in this case the State Board of Equalization exercise by direct delegation the state's power to ascertain and determine for the purpose of taxation the fair cash value of capital stock. There was no claim that the statute was unconstitutional. The simple claim was that the rates established by the commission were unreasonable and that their enforcement would take the property of the railroads affected thereby without due process and deny them the equal protection of the law. That is exactly the situation in this case. It is exactly the ground on which Mr. Chief Justice Fuller distinguished the *Reagan* case from the facts before this court in the case of *Barney* v. *City of New York*, 193 U. S., 430. There this court said on page 440, 441:

> "And as the establishment of rates by the commission was the establishment of rates by the state itself, and the determination of what was reasonable was left to the discretion of the commission, their actions could not be regarded as unauthorized, even though they may have exercised the discretion unfairly."

(c) THIS COURT HAS HELD THAT DISCRIMINATING ADMINISTRATION OF A CITY ORDINANCE BY PUBLIC OFFICERS CHARGED WITH SUCH ADMINISTRATION IS THE ACT OF THE STATE.

Yick Wo v. *Hopkins Sheriff*, 118 U. S., 356, was a case arising out of the arrest of complainant by the sheriff of San Francisco for the violation of an ordi-

nance of San Francisco, which provided that no one should operate a laundry, without the consent of the Board of Supervisors, unless the laundry be located in a brick or stone building.

The effect of the administration of these ordinances was to put all the Chinese laundries out of business.

On page 373 the court said:

> "In the present case we are not obliged to reason from the probable to the actual, and pass upon the validity of the ordinances complained of, as tried merely by the opportunities which their terms afford, of unequal and unjust discrimination in their administration. For the cases present the ordinances in actual operation and the facts shown establish an administration directed so exclusively against a particular class of persons as to warrant and require the conclusion that whatever may have been the intent of the ordinances as adopted, they are applied by the public authorities charged with their administration and thus representing the state itself, with a mind so unequal and oppressive as to amount to a practical denial by the state of that equal protection of the laws which is secured to the petitioners, as to all other persons, by the broad and benign provisions of the Fourteenth Amendment to the Constitution of the United States. Though the law itself be fair on its face and impartial in appearance, yet it is applied and administered by public authority with an evil eye and an unequal hand, so as practically to make unjust and illegal discrimination between persons in similar circumstances, material to their rights, the denial of equal justice is still within the prohibition of the Constitution."

In this connection we call the court's attention to the case of *Coulter* v. *Louisville & Nashville R. R. Co.*, 196 U. S., 599.

In that case, a railroad corporation of Kentucky brought a bill in the United States Circuit Court in Kentucky seeking to enjoin the certification of assessments made by a State Board of Valuation, composed of the Auditor of Public Accounts, the Treasurer, and the Secretary of State of Kentucky. There was no diversity of citizenship, but jurisdiction was based upon the denial of equal protection under the Fourteenth Amendment.

No complaint was made of the Constitution or laws of Kentucky, but it was claimed that the State Board did not observe the law. So that here was a case brought in a Federal Court, upon the ground of denial of equal protection, to restrain the enforcement of a tax assessed by a board constituted about the same as in the case at bar and exercising the same powers and occupying relatively the same position.

This court took jurisdiction of the case, and went into a consideration of the facts appearing in the record at length, finally deciding the case against the companies upon the failure of the proof to sustain the allegations of the bill.

Now, the case of *Barney* v. *New York*, upon which appellant places chief reliance, is reported but three volumes prior to the *Coulter* case, and if the *Barney* case was an authority in point, why did not this court dismiss the *Coulter* case on authority of the *Barney*

case, without going into the elaborate examination of the facts in the *Coulter* case?

The decision in the *Coulter* case necessarily assumed that the acts of the State Board were acts of the State of Kentucky, and, if the facts proven had been sufficient the court would have granted the relief.

The *Barney* case has been cited by this court in a connection which shows that this court considers it to hold just what we insist it does hold. In *Savannah, Thunderbolt, &c., Ry. Co.* v. *Savannah*, 198 U. S., 392, the complainant insisted that the City of Savannah was without statutory authority to impose the tax complained of and yet claimed the protection of the Fourteenth Amendment. "Were this true," this court said on p. 396, "the foundation of our jurisdiction would be gone, and this writ of error should be dismissed. See *Barney* v. *City of New York*, 193 U. S., 430." We maintain that the State Board had authority to make the assessment.

(d) IT HAS BEEN HELD BY THE CIRCUIT COURTS AND BY THE CIRCUIT COURTS OF APPEAL THAT THE ACTS OF THE STATE BOARD OF EQUALIZATION ARE THE ACTS OF THE STATE.

The following four cases are all from the Circuit Court and Circuit Court of Appeals of the Sixth Circuit. No other courts have given the specific subject here discussed such careful and exhaustive study. More cases, involving the actions, functions and nature of a Board of Equalization, and the jurisdiction of the federal court in reference thereto, have arisen in that circuit than anywhere else; and the conclusions of the Circuit Court and of the Cir-

cuit Court of Appeals have been absolutely unanimous. The facts of the cases and the points involved therein have been identical in almost every respect with those in the case at bar, and Judges Taft, Lurton, Day, Severens and Clark have, with absolute unanimity, decided these questions as we contend they should be decided in this case. We urge, therefore, special consideration of these cases by this court.

In *Railroad and Telephone Co.'s* v. *Board of Equalizers,* 85 Fed., 302 (C. C.), the railroad and telephone companies sought to restrain the Board of Equalizers from certifying the assessed valuations of their properties for taxation, on the grounds, (1) that the valuation was excessive; (2) that the property was not assessed proportionately with other property in the state, and the assessment resulted in a discrimination; (3) that the act appointing the board was unconstitutional; (4) that the properties had already been validly assessed in the year 1896 for the year 1896-1897, and that the re-assessment for the year 1897 in the year 1897 was void.

On pages 303-306 of the syllabus and opinion, by Judge Clark, it is said:

> "An assessment of property, which violates the provision of a state constitution requiring uniformity of taxation, and which is a class discrimination, also deprives the owner of the equal protection of the law guaranteed by the Fourteenth Amendment to the federal constitution, although the statute may have been constitutional and the illegality is in its administration."
>
> "If the Board of Equalization was under a duty to equalize, a mistaken view that such was not its duty could not change the law, and could not ren-

der a result legal which would otherwise be illegal. * * * It is obvious enough that if the state adopts a system of taxation by which assessements are made through different officers, agencies, or boards, the state is equally represented by every such board or agency, and, so far as substantial results are concerned, the case is just the same as if the state acted through one board only. * * * If there is a discrimination against this species of property, imposing an unconstitutional burden thereon, the result cannot be sustained; and this is equally so whether such a result is due to erroneous action by the board, or to defect in the legislation, in not requiring equalization, and furnishing the means whereby this might be made real and effective. * * * So whenever a system of taxation is adopted in a legislative enactment, or methods of procedure are followed by administrative boards under such enactment, by which a large class of individuals or a large class of property is discriminated against, either in respect of the rate of assessment or the rate of levy, and such a result violates a fundamental principle of the constitution, courts of equity may interfere to restrain the operation of such an unconstitutional exercise of power." (p. 307.)

There was diversity of citizenship in this case, but the court held that there was a federal question also. (p. 318.)

The case of *Nashville C. & St. L. Ry.* v. *Taylor*, 86 Fed., 168 (C. C.), was also a suit to enjoin the certification of an assessment by the Board of Equalization of the State of Tennessee on substantially the same grounds as the preceding case. The hearing was on demurrer to the bill on the principal ground that there was no federal jurisdiction, there being no federal question.

Complainants in no way based jurisdiction on the ground of diversity of citizenship.

On page 183 *et seq.* of the opinion by Judge Clark, it is said:

> "It was said in the discussion at bar that the prohibitions of the fourteenth amendment are directed against state action only, and the correctness of this proposition is fully conceded, but a too limited definition and a too narrow view of what constitutes state action must not be entertained. State action, to which the prohibitions of the fourteenth amendment extend, is not limited to a legislative enactment, as it comes from the hands of the legislature, but extends to all instrumentalities and agencies officially employed in the execution of the law down to the point where the personal and property rights of a citizen are touched. Under any other interpretation it would be practically possible to reduce the constitutional guaranty to a mere *brutum fulmen.* A statute might be framed entirely fair on its face, which, by the omission of necessary affirmative provisions, and a failure to contain needed directions, would furnish color of authority for practices thereunder which would be destructive of rights most carefully guarded by the Constitution."

The court concluded that the fourteenth amendment applied to the taxing power to the extent above indicated and that there was a federal question involved which gave jurisdiction.

Taylor v. *L. & N. R. R. Co.*, 88 Fed., 350 (C. C. A. is the same case as the one preceding, on appeal; and affirms the lower court, merely modifying the form of injunctional order so as to require complainants to pay seventy-five per cent. of the assessed value as a condition precedent to granting the injunc-

tion. The federal jurisdiction, however, was based, as far as the Court of Appeals passed upon it, on diversity of citizenship (p. 357).

In *Louisville Trust Co.* v. *Stone*, 107 Fed., 305 (C. C. A.), the same court (Lurton, Day and Severens, Circuit Judges) said, by Mr. Justice Day:

> "It may be conceded that, if the allegations of the bill are made out, there exists in respect to the property of complainant, and others similarly situated, a systematic, intentional, and illegal undervaluation of other property by taxing officers of the state, which necessarily effects an unjust discrimination against the property of which the complainant is the owner, and a bill in equity will lie to restrain such illegal discrimination, and that in such cases federal jurisdiction will arise because of the equal protection of the laws guaranteed by the Fourteenth Amendment. *Taylor* v. *Railroad Co.*, 31 C. C. A., 537, 88 Fed., 350. *Railway Co.* v. *Taylor* (C. C.), 86 Fed., 168, in which the grounds of federal jurisdiction are carefully examined by Judge Clark, who delivered the opinion."

There was no diversity of citizenship here.

(e) CASES CITED BY APPELLANTS IN SUPPORT OF THEIR CONTENTIONS.

The case of *Barney* v. *City of New York*, 193 U. S., 430, is in no wise similar to our case. The basis of the decision in the *Barney* case, as stated by Mr. Chief Justice Fuller in the commencement of the opinion, was "that amendment prohibits deprivation by a state and here the bill alleged that what was done was without authority and illegal."

This is the case which appellant claims is absolutely conclusive of the case at bar.

In the *Barney* case the Rapid Transit Board had authority to lay out a route for a subway and this route was consented to by appellant Barney. The statute provided, as was said by Mr. Justice Fuller in the opinion (page 437) that:

> "Consents of the municipal authorities and the abutting property owners to construction on the routes and plan adopted must be obtained and any change in the detailed plans and specifications shall accord with the general plan of construction, and, if not, like consents must be obtained to such change."

In spite of this provision, the Rapid Transit Board permitted its engineer to relocate a route twenty-seven feet nearer appellant's property without obtaining appellant's consent.

The acts of the Rapid Transit Board, it will be noted, were entirely outside of their statutory authority. Not only were their acts not authorized, but they were forbidden by the law. The courts of New York had so decided. (p. 437.)

When the Rapid Transit Board attempted to go beyond the lines as consented to, it was acting entirely without its jurisdiction and the State of New York could no more be said to have authorized such a proceeding than if the board had located the line upon another street.

The *Barney* case is distinguishable from the case at bar because the *Barney* case is clearly one where the acts complained of were beyond any pretense of authority from the state.

In our case, the authority for making an assessment upon the capital stock of the ap-

pellee corporation was specifically granted by the statutes of the State of Illinois, which had been interpreted by the Supreme Court of the State of Illinois, and the Supreme Court of the State of Illinois had commanded the officers of the State Board of Equalization to make an assessment, and when made, the statutory, prescribed duty of the officers of the State Board of Equalization was to certify the taxes to the auditor and the duty of the auditor was to certify them to the collecting agency in the county, and the duty of the county officers under the statute was to proceed to collect the taxes extended upon the assessment.

We affirm, therefore, the general authority of all these officers to proceed in tax matters and we, therefore, insist in the language of this court in the *Barney* case, that this suit is one "brought against officers of the state (to-wit, the tax collectors) as representing state action and liability," and not one "against officers of the state when claiming to act as such without lawful authority."

Besides, in the *Barney* case this court pointed out the distinction between the case then before them and the case of *Reagan* v. *Farmers L. & T. Co.*, 154 U. S., 362, the "railroad rate cases." In the *Barney* case this court said, referring to the *Reagan* case (p. 400):

> "And as the establishment of rates by the commission was the establishment of rates by the state itself, and the determination of what was reasonable was left to the discretion of the commission, their action could not be regarded as unauthorized, even though they may have exercised the discretion unfairly."

The *Reagan* case is like ours.

Owensboro Water Works v. *Owensboro,* 200 U. S., 38, is a case on the same theory as the *Barney* case, and distinguishable in exactly the same way. The act of the city was not within its powers.

The case of *Virginia* v. *Rives,* 100 U. S., 313, the complaint was by a colored man who was indicted for murder. In the trial of the case the bailiff, or subordinate officer whose duty it was to select jurors, excluded all colored men from the jury. Before the trial in the state court, a petition for removal was filed in the Circuit Court of the United States, and thereafter a petition for mandamus was filed in this court to compel the United States Marshal and the Federal Circuit Judge to return the prisoner to the state court. This petition was denied, this court holding that there was still a power in the state court in the same action, which was then pending before it, or in the federal court in the case, which was then pending before it, to review and correct the action of the subordinate officer in the selection of the jurors. The remedy still existed in the pending proceedings in those courts where final action had not yet been taken to correct the errors complained of, and this court would not interfere under such circumstances.

Strauder v. *West Virginia,* 100 U. S., 303, is a similar case. The act of removal by the Federal Court would amount to an interference with a state court before it had finally acted. Whereas, in the case at bar

the final taxing body of this state has acted for state purposes.

We direct the court's attention, in this connection, to the case of *Neal* v. *Delaware*, 103 U. S., 370, which supplements *Virginia* v. *Rives*.

Neal was a colored man. He was indicted in Delaware, tried and convicted. The conviction was sustained by the highest court of Delaware. A writ of error brought it to this court. In selecting the grand jury and the petit jury, colored men had been excluded. The highest court of Delaware had held that "there is no discrimination in the constitution or laws of our state (Delaware) against colored men as jurors." (pp. 391-392.) There was, therefore, no question of the constitutionality of any law of Delaware.

The question was whether the action of the officers administering the law of Delaware, which was on its face constitutional, was the action of the state.

This court, by Mr. Justice Harlan, said on p. 394.

> "The prisoner * * * is not without remedy if the officers of the state charged with the duty of selecting jurors were guilty of the offense charged in his petition. A denial upon their part, of his right to a selection of grand and petit jurors without discrimination against his race, because of their race, would be a violation of the Constitution and laws of the United States, which the trial court was bound to redress. As said by us in *Virginia* v. *Rives*, *supra*, 'The court will correct the wrong, will quash the indictment, or the panel; or, if not, the error will be corrected in a superior court,' and ultimately in this court upon review."

And again, on page 397 and 398, this court said:

"The action of those officers in the premises is to be deemed the act of the state; and the refusal of the state court to redress the wrong by them committed was a denial of a right secured to the prisoner by the Constitution and laws of the United States. Speaking by Mr. Justice Strong, in *Ex parte Virginia,* we said, and now repeat, that 'a state acts by its legislative, its executive, or its judicial authorities. It can act in no other way. The constitutional provision, therefore, must mean that no agency of the state, or of the officers or agents by whom its powers are executed, shall deny to any person within its jurisdiction the equal protection of the laws. Whoever, by virtue of public position under a state government, deprives another of property, life, or liberty without due process of law, or denies or takes away the equal protection of the laws, violates the constitutional inhibition; and as he acts in the name and for the state, and is clothed with the state's authority, his act is that of the state. This must be, or the constitutional prohibition has no meaning.'

In the *Civil Rights Cases,* 109 U. S., 3, the persons complained against were not acting not by virtue of the state laws. They were individuals who had refused to give negroes accommodations at their inns, theaters, or railway carriages. The action complained of was not that of a state or a state's officer acting in the administration of a state law.

In re Storti, 109 Fed., 807, is a case like *Virginia* v. *Rives, supra.*

With reference to the cases which counsel for appellants have cited arising under the removal clause, Section 641 of the Revised Statutes, that is, cases like *Strauder* v. *West Virginia,* and *Virginia* v. *Rives,* and

particularly the case of *Kentucky* v. *Powers*, 201 U. S., 1, we assert that there is nothing in the law therein laid down in any way applicable to the case at bar. A removal is in the nature of a supersedeas. Inasmuch as in those cases above cited there were proceedings in the nature of habeas corpus, the action of the federal court in taking jurisdiction of a case under the rule of the statute practically amounted to a review by the federal court of the proceedings pending in the state court before the acts complained of as acts of the state had been passed upon by the highest judicial tribunal in the state. As was said by Mr. Justice Harlan on page 40 in the case of *Kentucky* v. *Powers*, in closing his discussion of the subject:

> "It is sufficient to say that if the accused, by reason of the Taylor pardon, acquired any right under the Constitution or laws of the United States, or if at the next trial of his case that right, having been specially set up and claimed, *should be denied by the highest court of the state in which a decision of that question could be had*, such action of that court, in respect of that pardon, can be reviewed here upon a writ of error."*

In the case at bar the action complained of is "by the highest court of the state in which a decision of that question [the re-assessment] could be had," to-wit: the State Board of Equalization of the State of Illinois.

It was upon this very theory that the lower court referred, on the preliminary motion, to enjoin the State Board of Equalization from making the re-assessment. There the court said (112 Fed., 607-614):

"It [the State Board] remains still the final re-

* Italics are ours.

viewing taxing body of the state, to whom the taxpayer and the state may alike look for a fair ascertainment of value according to every pathway that leads to a just result. The bill in this case assumes that the board will not now exercise its independent judicial function, but will confine itself to the mere arithmetic of adding together the indebtedness and stock exchange quotations of the capital stock. We are not at liberty to concur in this assumption. We believe, and are bound to believe, that the board will exercise its function as contemplated by the law. This would exclude the supposed danger of gross discrepancy and the supposed danger of overvaluation. If it transpires that the board of equalization, through pique, or under the lash and spur of some external power, or through personal fear, or moved by any other consideration than the impartial and independent discharge of its own duty, attempts to certify an assessed valuation that in its effect would be a fraud upon any taxpayer, the court still remain open to the injured taxpayer. The board should be just, as the state wishes it to be, irrespective of the past, without partiality, and this we will assume until the contrary appears."

If the contentions of counsel for appellants in this regard were true, no case would ever arise where the Circuit Court of the United States could take jurisdiction under the Fourteenth Amendment unless an act of the Legislature of the state was claimed to be unconstitutional, or unless the judgment of the highest court of the state was complained of. The fallacy of this proposition is apparent on its face.

In the case of *Kiernan* v. *Multnomah County*, 95 Fed., 849, the report of this case is so meagre that it is impossible to ascertain what were the facts.

In addition, it must be constantly borne in mind,

with reference to all these cases, including *Manhattan Ry. Co.* v. *New York,* 18 Fed., 195, that the interpretation of the statute, under which the officers of the state acted in the case at bar, was by the Supreme judicial body of the state; and that the officers commanded to act under and in accordance with that interpretation were the supreme taxing officers of the *state,* and that, believing they had no discretion in the matter, they did not exercise their judgment. In none of the cases cited by appellant did such facts as these exist.

In the case of *St. Louis I. M. & S. Ry.* v. *Davis,* 132 Fed., 629, the facts were such that this court would have reversed the decision and decree of the District Court, sustaining the demurrer. The bill, among other things, claimed that the assessing tribunals of Arkansas had undertaken to value the entire railroad property of the St. Louis I. M. & S. Ry. Co., a large part of which was located in Missouri and Illinois. This was exactly the situation in the cases of *Delaware* v. *Lackawanna Ry. Co.* v. *Pennslyvania,* 198 U. S.. 341, and *Fargo* v. *Hart,* 193 U. S., 490, where taxes on such assessment were declared void, because they violated the 14th amendment and were enjoined.

It appears, also, from the case of *Ex parte Fort Smith, etc., Bridge Company,* 62 Ark., 461, 36 S. W., 1060, cited by the federal court at page 635 of its opinion that the laws of Arkansas provided for and allowed an appeal from the assessment made by the state board to the county courts; and that there was, therefore still a remedy in a direct proceeding. There

is no such appeal in Illinois. The State Board of Equalization is supreme, and its judgments are not reviewable by any appeal.

(f) APPELLEE IS NOT DRIVEN TO SUE IN THE STATE COURT AND THEN TO PROSECUTE A WRIT OF ERROR TO THIS COURT.

The contention by counsel for appellant that appellee might have had recourse to the courts of the state is not an answer to the proposition that the State Board of Equalization is the supreme taxing body in Illinois and that its judgment in taxing matters is final in the state. His argument is based upon an entire misconception of the fundamental theory of our constitutional law.

The principle of our constitutions, state and national, which is pointed to as their distinguishing marks from the constitutions of other countries is, that each department of government, legislative, executive and judicial, is a balance and check upon the other. Thus, even an act of the legislature is subject to review by the courts to determine whether it is in conflict with the federal constitution or in conflict with the state constitution, and courts, both state and national, have equal right to determine that question where a *bona fide* claim is made that a legislative act is in contravention of both state and national constitutions, or of the national constitution alone.

Suppose the legislature had made this assessment, instead of delegating the power to do so to the State Board, would counsel then claim that it was not the

act of the state, because appellee still had recourse to the state courts?

A final act of the legislative department or a final act of the administrative department is the act of the state, even though it may be subject to criticism, modification or annulment either by statute or by action of the courts; but the right of an individual complaining against the act to invoke the other department of the state, to wit: the judicial, does not in any wise change the character of the act itself. The right given to go into the court is not merely a right granted by the state constitution. It is a right granted by the national constitution. The recourse to the judiciary department exists under both constitutions and is a part of the due process in the law of the land, not as an appeal to correct, but as a final recourse for the purpose of collaterally annulling the action of the other department.

The Judiciary Act of the United States provides in substance that, in cases arising under the law of the United States or under the Constitution, the United States courts have jurisdiction *concurrent* with that of the state court; and a complainant, therefore, is given a choice of remedies and the United States court has the same power to decide his case as the state court has. A complainant is not forced to go into a state court. The statute gives him the right to elect which forum he will choose.

Due process means in this connection due process in taxing matters by the persons having the power to assess the property and levy the tax, and not due

process in testing the validity or checking the enforcement of the act.

The same claim would be made in the state court as is here made in the federal court, that the methods by which the assessment was made and the tax was levied and collected were lacking in due process. The nature of proceedings in the state court would not in themselves relate to levying, assessing or collecting the tax. The judicial department has no such power. The recourse given is not to a particular court, but to the judicial department which the two constitutions, state and federal, *concurrently* establish.

If the contention contended for by appellant were sustained, it would be necessary in each instance, where a federal constitutional claim of lack of due process were made because of the action of state officers acting as such state officers, to begin suit in the state court first and go up by writ of error to the United States Supreme Court, and the word "concurrent" in the federal Judiciary Act would be without meaning.

Of course, in cases where by statute there is an appeal from the taxing tribunals of a state to the courts, or where, as in condemnation proceedings or sepecial assessment proceedings, the actions of the boards must be confirmed by a designated state court, there. Because of the fact, in such cases, that the judgment of those boards is not the final action in reference to tax matters, a party cannot make out a case arising under the Fourteenth Amendment until he has exhausted the remedy in the state courts. The state courts are thus made a part of the state's taxing ma-

chinery. The federal courts in such cases will not act as a corrective body during the pendency of an action in the state courts. The rule of comity alone would operate to prevent this, and this court has so held in the so-called "Habeas Corpus" cases. (Cited *supra.*)

This was the holding of the lower court in this case and in the opinion it was said, in part, as follows:

> "It will not do in this connection to say that the judicial power thus invoked, when exercised by the state courts, is still the voice of the state—that the state is not committed to the executive wrong complained of until its courts have spoken. Were there a right of appeal, *as a part of the taxing process*, from the State Board of Equalization to the courts, that view might prevail. But no such appeal lies. The suit is not to review the assessment, but to set it aside. The suit lies as surely in the United States Courts, (the necessary basis of jurisdiction existing) as it does in the state courts. It is in every sense a resort to the courts, national or state, to protect the party complaining from what otherwise would be the consummated act of the state.
>
> Let us see then how the suggestion, that the judicial power thus invoked, when exercised by the state, is the voice of the state, logically works out. The State Board, for illustration, without exercising any independent honest judgment, assesses the capital stock of A, and also the capital stock of B, thus depriving them both, but for judicial restraint, of due process of law. A is a citizen of a state other than the one where the tax is laid; B is a citizen of the state where the tax is laid. A therefore may bring his action in the federal court; B must bring his action in the state court. But though the federal court is no part of the state, the suits thus brought are identical in purpose. Can we say that so far as A is concerned, the action of the board is the final act

of the state, whereby the property would have been taken, without due process of law, but for the injunction suit in the federal court; but that so far as B is concerned, though the injunction suit is precisely of the same character, the act of the board is not the final action of the state. Does the finality of the taxing act depend on the accident of citizenship?'' (Rec., 1285.)

(2) THE COLLECTION OF THE TAX BY THE COLLECTORS WILL BE THE ACT OF THE STATE.

The attorney general of the state, the county attorneys, and the corporation counsel of the city are defending on behalf of the state, county and city and of the state, officers. who are defendants. The tax collectors have attempted to collect the taxes, and if appellants succeed in this suit, the state, county and city will take the money collected upon the assessment.

The re-assessment was made under the authority and upon the command of the highest judicial authority in the state, in a suit in which the state on the relation of two citizens was petitioner, by the board which is vested with the sole authority and power to make such an assessment, acting for the state. The re-assessment so made by the State Board of Equalization was certified by the auditor of the State of Illinois to the county treasurer of the County of Cook, who is ex-officio county collector of said county, and in his office was extended upon the duplicate tax books and by him delivered for collection, with warrants attached, to the collector of the Town of North Chicago, in which is located the principal office of appellee. the authority of the auditor to so certify said

re-assessment, the authority of the county collector to extend the tax upon such re-assessment and the authority of the town collector to make the collection under the laws of the State of Illinois are not denied, and cannot be denied.

The injunction sought in this suit is not sought against the State Board of Equalization, but is directed against the county treasurer, ex-officio county collector, and the collector of the Town of North Chicago in Cook County, who represent the state and have express authority under the statute to collect all taxes appearing upon the duplicate tax books in their custody and control. The collector's authority so to do is contained in the following provision of the Revenue Act (Hurd's Revised Statutes, Chapter 120, paragraph 156):

> "In case any person, company or corporation, shall refuse or neglect to pay the taxes imposed on him or them, when demanded, it shall be the duty of the collector to levy the same, together with the costs and charges that may accrue, by distress and sale of the personal property of the person, company or corporation who ought to pay the same."

It is difficult, therefore, to conceive how there can be any ground for the argument of appellant that the action herein complained of and the action against which relief is sought are not the action of the state, or the action of the officers of the state acting for the state and pursuant to authority conferred on them by the state. The re-assessments were made and the taxes were spread and collection was threatened through the tax machinery of the state which alone was

constituted to do the very acts which have been done and to do the very acts which, unless restrained, will be done.

II.

THE COLLECTION OF THE TAXES EXTENDED UPON THE RE-ASSESSMENT OF THE CAPITAL STOCK OF APPELLEE MADE BY THE STATE BOARD OF EQUALIZATION, WILL DEPRIVE APPELLEE OF ITS PROPERTY WITHOUT DUE PROCESS OF LAW.

In order to bring this case within the protection of this constitutional guaranty, it is necessary to show:

(a) That the appellee had property;

(b) That such action by the state in taking the property of appellee is void for want of "due process of law."

We will take these propositions up in their order:

A

APPELLEE HAD PROPERTY.

It is admitted that the assessments complained of and the taxes thereon are upon the property of the Chicago Union Traction Company and its lessor companies, all of which property was, at the time of the making of said assessment, in the possession and under the control of, and was being operated by, the Chicago Union Traction Company as lessee of the North Chicago City Railway Company, the North Chicago Street Railroad Company, the

Chicago West Division Railway Company, the Chicago Passenger Railway Company, and the West Chicago Street Railroad Company.

Under the terms of the leases and assignments of leases from said companies to the Chicago Union Traction Company, dated June 1, 1899, all property rights and franchises were absolutely transferred to and vested in the lessee for the terms of the leases, respectively. The Supreme Court of Illinois has passed upon one of these leases and has held that the conveyance therein was practically absolute, leaving in the lessor no reversionary interest in the property and franchises conveyed of any substantial value whatever.

> *Chicago West Division Ry. Co.* v. *Metropolitan West Side Elevated Railroad Company*, 152 Ill., 519, 525-526.

B

TO CONSTITUTE DUE PROCESS EVERY STEP PROVIDED BY LAW MUST BE DULY OBSERVED.

We do not attempt to define due process of law, except to say that every step, regulation and provision in any proceeding under the law of a state making for the protection of a person's rights or property must be observed.

In *C., B. & Q.* v. *Chicago*, 166 U. S., 226, this court said, on p. 224, quoting Story on the Constitution:

> "Due process of law requires, first, the legislative act authorizing the appropriation, pointing out how it may be made and how the compensa-

tion may be assessed; and, second, *that the parties or officers making the appropriation shall keep within the power conferred and observe every regulation which the act makes for the protection of or in the interest of the property owner, except as he may see fit to waive them.*"*

Such observance should be a substantial observance and not merely formal.

C.

THE ACTION OF THE STATE BOARD DID NOT CONSTITUTE DUE PROCESS OF LAW

1. **BECAUSE THE MEMBERS DID NOT EXERCISE THEIR JUDGMENT.**
2. **BECAUSE THEY FAILED TO EQUALIZE THE ASSESSMENTS.**
3. **BECAUSE THE ASSESSMENTS MADE ARE SO GROSSLY EXCESSIVE AS TO AMOUNT TO FRAUDULENT ASSESSMENTS.**
4. **BECAUSE OTHER CORPORATIONS IN THE SAME CLASS WERE NOT ASSESSED ON THE SAME BASIS.**
5. **BECAUSE THE APPELLEE HAD NO HEARING AS TO POWER OF THE BOARD TO RE-ASSESS OR AS TO THE VALUE TO BE PLACED ON ITS PROPERTY.**

(1) THE MEMBERS OF THE STATE BOARD DID NOT EXERCISE THEIR JUDGMENT.

Every person is entitled to the fair and impartial exercise of every function of justice as of natural right. Every step in a proceeding which takes his life, liberty or property must not be arbitrary, but must be regular and legal, according to the settled maxims of the law. The primary requisite in every such proceeding is impartiality; and during such proceeding the sole custodian of the parties' rights to impartiality is the judicial officer before whom the proceeding is had. The exercise of his judgment is an indispensable element of due process.

* Italics are ours.

In considering whether due process has been had, this court has frequently said it is the substance that the law regards, not the form. An exercise of the judicial officer's judgment, in whatever legal form it may have been made, is the substance of a trial, or of an assessment.

Time and again this court has required minor officers of a court to obey the mandate of equality prescribed by the "law of the land," and to see to it that persons receive a fair, impartial trial according to the law of the land, as in the negro cases, in the southern states, or the Chinese cases in the western states. In the *Reagan case* it was the act of a quasi-judicial body acting unreasonably. In other cases the act was that of a ministerial officer or board, unfairly or arbitrarily administering the law under a misinterpretation of it, and not due to a defect in the law itself. Much more stringently should the rule be applied, therefore, to a case where judges themselves refuse to give to parties what the law commands they shall give, their judgment, as a part of due process; and where the judicial officers before whom the proceeding is had, being those of the highest tribunal of the state having jurisdiction over the subject-matter, there is no appeal, no other direct, corrective power in the state.

The exercise of the judgment of an assessing body (which in matters of valuation is essentially judicial) is a fundamental part of the requisite due process in making an assessment. In the present case, this element is lacking and the Fourteenth Amendment has been violated. The State

Board of Equalization did not act duly, but, not exercising its judgment, acted arbitrarily against appellee's rights.

In a case similar to this, the Supreme Court of Illinois said:

> "Whenever the board [the State Board of Equalization] undertakes to go beyond its jurisdiction, or to fix valuations through prejudice or a reckless disregard of duty, in opposition to what must necessarily be the judgment of all persons of mature reflection, it is the duty of the court to interfere and protect taxpayers against the consequences of its acts. Where its jurisdiction is concluded, no mere difference of opinion as to the reasonableness of its valuations will justify equitable interference; *but its valuations must be the result of honest judgment and not of mere will.** (*C., B. & Q. R. R. Co.* v. *Cole*, 75 Ill., 591-594.)

See, also,

C., B. & Q. R. R. Co. v. *Paddock*, 75 Ill., 616.

This subject is so admirably analyzed and discussed by the Circuit Court of the United States in the opinion rendered on the final hearing of this cause below, that we urge this court to read that opinion, particularly the portion thereof appearing on pages 1283 to 1286 of the record.

The Constitution of the State of Illinois of 1870, in Article IX, Paragraph 1, provides that the value of property within the State of Illinois shall be *ascertained* "by some person or persons to be selected or appointed in such manner as the General Assembly shall direct, and not otherwise."

By the Revenue Act (Chapter 120, Hurd's Revised

* Italics are ours.

Statutes of Illinois), the State Board of Equalization is designated as the proper body to "ascertain and determine" the value of the capital stock of corporations organized under the laws of the state, and the mandatory duty is imposed upon them by that statute to so value such capital stock as to *ascertain and determine* the fair cash value of such capital stock, including the franchise, over and above the assessed value of the tangible property of such company, and to adopt such rules and principles for ascertaining the fair cash value of such capital stock as to such Board may seem equitable and just. (Paragraph 3, Chapter 120, Hurd's Rev. Stat. of Illinois.) Their duty is absolutely clear and unavoidable: to ascertain and determine judicially from all possible sources, which are at their command, the fair cash value of the capital stock of corporations which it is within their jurisdiction to assess. They are the sole body which can assess that property and their function in determining the value of the property in making the assessment is solely a *judicial function*, like that of any court of justice.

The board, during this session of 1901, was harassed by innumerable petitions and delegations of citizens of Chicago, of members of the City Council, and various associations and organizations, urging them to assess the capital stock of these corporations. Even the Mayor of Chicago, and a delegate from the Board of County Commissioners of Cook County went to Springfield to impress forcibly upon the board the necessity of assessing capital stock. Mass meetings were held in Chicago

and the board knew of them. There was a general movement and cry for increased taxation of corporations, and the State Board of Equalization, being the chief instrumentality for such taxation, was the target of it all. (See statement of facts.)

The board, being human public officers, could not resist and instead of performing their duty judicially, they were swept to the extreme limit of the demands and the assessments they made amount to little short of confiscation of appellee's property. On top of all this came the writ of mandamus to assess the property in a specific way, and practically, as they believed, at specific values; and then the injunction of a federal court prohibiting them from making the assessment, commanded by the state court, at least until after the hearing set for the very day when the mnadamus writ was made returnable.

Under this condition of facts, which are established in the record in this court, we hardly need to refer to the testimony of the members of the board to establish our contention that the board acted without judgment, without due consideration of evidence of values, but with fear and under duress, and followed what they thought was the only rule they could follow.

The writ of mandamus issued out of the Circuit Court of Sangamon County after affirmance of the judgment of that court by the Supreme Court of Illinois, and was served on the State Board of Equalization of 1901, on or about the 2nd day of November, 1901 (Rec., 1059 and 1064), commanding them to make the valuations and assessments, herein complained of, against the Chicago Union Trac-

tion Company and its lessor companies, separately, by name, and to make return on November 22, 1901, in what manner they had complied with the court order. (Rec., 172 *et seq.*)

The State Board of Equalization, by its attorney, applied to Judge A. P. Thompson of the Circuit Court of Sangamon County on November 18, 1901, for an extension of ten days' time in which to make the assessment. (See citations to Record next following.)

The members of the board called as witnesses, testified that this application was refused on November 18, in such manner that the members of the capital stock committee of the board felt constrained, by fear of the consequences upon an assessment which in any way varied from the instructions, to make the assessment not in the exercise of their judgment of what a proper assessment should be, based on real values, but merely with a view of literally and subserviently satisfying the specific terms of the mandate, basing their calculations upon the memoranda of market values furnished in the record in the mandamus case, and upon the data and advice given by attorneys for the petitioners in the mandamus case, and upon statements and data of market values furnished by the petitioners themselves.

A glance at the testimony in the record by members of the State Board of Equalization upon this subject entirely disposes of this subject and demonstrates that the re-assessment made by the State Board

of Equalization is not its judgment and is, therefore, an invalid assessment.

Samuel M. Barnes, called as a witness on behalf of complainants below, testified before the master as follows:

That he was a member of the State Board of Equalziation during the years 1900 and 1901, and in the year 1901 was Chairman of the Capital Stock Committee which made the re-assessment for the year 1900 and the assessment for the year 1901 upon the capital stock of the Chicago Union Traction Company. (Rec., 103 and 104.) That the re-assessment of the capital stock of appellee was made on the 22d day of November, 1901, and that the writ of mandamus commanding the assessment to be made was served upon the board on November 2, 1901, and was returnable on the very day when the re-assessment was made. (Rec., 105.) That application had been made to the Circuit Court of Sangamon County, out of which the said mandamus issued, asking for an extension of time within which the return to said writ should be made by the State Board of Equalization. That said application for an extension of time had been refused by Judge O. P. Thompson in such terms and in such manner that there was no room for the exercise of any judgment by the board and that all they had to do was to merely make a numerical calculation in strict accordance with the principles and figures set forth in the writ of mandamus and in the opinion of the Supreme Court affirming the judgment of the Circuit Court of Sangamon County in the mandamus case; and that, with reference to each company, they fol-

lowed subserviently the example which the Supreme Court made in its opinion by computing what should be the tax upon the capital stock of the Peoples Gas Light and Coke Company for the year 1900, and got their information for those various figures in consultations with the attorneys for the relators in said mandamus case and from a table furnished to the members of said board by Catherine Goggin and Margaret Haley, the relators in said mandamus case. (Rec., 106 to 113, and also, 120 to 123.) That said assessment was made in order to satisfy the Circuit Court of Sangamon County; that it was not his judgment that it was a proper assessment, the general idea of the Committee being that it was dictated by the court. (Rec., 113.)

Among the questions asked Mr. Barnes were the following:

"Q. Did you regard, or have you ever regarded the re-assessment upon the capital stock of any of those companies as the result of your deliberate judgment as to the value of the property, or rather the result of your desire to obey what you considered to be enjoined upon you by the mandate of the Circuit Court of Sangamon County?

A. Well, the assessments that were made subsequent to this assessment of 1900 were based on what we believed to be the law, and in a general way on the judgment of the members. The assessment that followed soon after this assessment was made, was made on what we believed to be a fair estimate of the value of the property.

Q. And the value being substantially the same for the property?

A. Yes, the real values being, yes.

Q. And you considered then that your subse-

quent judgment some weeks later in that year, upon the assessment for 1901, you regarded that action as representing your real judgment, did you?

A. Yes, sir.

Q. And the other is what you did to satisfy the court?

A. Yes, sir; most emphatically." (Rec., 113 and 114.)

"Q. The record shows * * * that the temporary restraining order issued by the court was dissolved on the 22nd of November. Assuming that to be correct, do you remember the occasion when it was dissolved?

A. I do.

Q. How long a time elapsed after the dissolution of the restraining order before you made the re-assessment upon the Chicago Union and Chicago Consolidated Traction Companies?

A. I could not say as to that, the record will show, a very short time. * * * We made use of the utmost expedition that day.

Q. And that day was the last day for your action under the mandamus writ, was it not?

A. Yes.

Q. Did you not take that action also for fear or on account of the fear you had that unless you acted promptly your certification might be enjoined?

A. Yes, sir." (Rec., 114 and 115.)

Substantially all the testimony of Mr. Frank P. Martin (also a member of the State Board of Equalization and of the Capital Stock Committee for the years 1900 and 1901) is exactly the same as that of Mr. Barnes. Among the questions asked him were the following:

"Q. Did you feel at the time you made the assessment that you were bound by the mandate of the court and the declarations of the court?

A. Absolutely.

Q. Upon what information did you base the values that you assigned to the stock and bonds in making up the re-assessment upon the corporations in the year 1901 for the year 1900 which you afterwards reported to the board and which the board confirmed?

A. I felt at the time they ought to be made on the information furnished by Mr. Greenacre (attorney for relators) and the school teachers."

* * *

"Q. Now, tell us what information was acted upon by that Committee (Capital Stock) in fixing those values, upon what did you principally rely for your information in the re-assessment in relation to the complainant companies?

A. The figures furnished by the teachers." (Rec., 130 to 133.)

On cross-examination, Mr. Martin was asked:

"Q. Did you think these figures excessive?

A. Yes, sir." (Rec., 134.)

The testimony of John S. Cruttenden, also a member of the State Board of Equalization and of the Committee on Capital Stock for the years 1900 and 1901, is exactly the same, with reference to the manner in which the board felt thus bound to make assessment. (Rec., 142 to 145.)

The testimony of Louis D. Hirsheimer, called as a witness on behalf of complainants below, testified to exactly the same condition of facts. (Rec., 155 to 159.)

Appellants did not seek to contradict this evidence when they produced, as their own witness Mr. McKnight. (Rec., 300.)

On the 20th of November, the State Board of Equalization was served with a notice of an appli-

cation for an injunction to be made to the Circuit Court of the United States for the Southern District of Illinois restraining them from making any re-assessment against the capital stock and franchises of the Chicago Union Traction Company for the year 1900. (Rec., 1068.) A hearing on said motion was had before the said Court in the morning of November 22, 1901. The motion for an injunction was denied at about 12:15 P. M. on the ground that the suit was premature, and that a court of equity should not enjoin state officers from the performance of their duty, and, on a preliminary hearing, override the presumption that they would perform such duties in the manner contemplated by law. (112 Fed., 607-610.) At about 1 P. M. on the same day, the State Board of Equalization hastily convened, adopted the report of its Capital Stock Committee, which had made the assessment now complained of, suspended rule 25 of their rules of procedure (which provides that upon presentation committee reports of assessments shall lie over two days before adoption by the board) certified the assessment so made and adopted to the Auditor of Public Accounts, ordered the Chairman and Secretary of the State Board of Equalization to make return to the Circuit Court of Sangamon County of the action of the Board pursuant to the writ of mandamus, and to file in said court certified copies of the assessments made in pursuance thereof. This action did not occupy more than half an hour. (Rec., 1070-1071.)

The Proceedings of the board show on their face,

even more forcibly than the testimony of the members, the panic stricken condition of the members of the board:

Re-assessment for 1900, full value.....$70,321,600
Assessment for 1901 made one month later,
full value 40,604,555
(Rec., 1069, 1120 and 1125.)

It is clear, therefore, upon the record that the re-assessment for 1900 was made subserviently and arbitrarily, in order to comply with the writ of mandamus. The assessment for the year 1901 was made at a time when the Board was absolutely free to, and did, according to their own testimony, exercise their judgment. The assessment for 1901 was considered by them as the just and equitable judgment of the Board of what they believed, upon deliberation, to be the fair cash value of the capital stock of appellee. The two assessments so widely divergent were made upon the same properties, by the same Board within a month of each other. The fact that they were made, one for the year 1900 and the other for the year 1901, does not account for the wide divergency of values, for, as a matter of fact, the market quotations shown upon the record demonstrate that such values were practically the same in 1901 as they were in 1900. It is impossible, therefore, to comprehend how both these assessments can represent the judgment of the board, and we submit that, in view of the testimony of the Board and of the wide discrepancy between these two valuations, there is direct evidence amounting to conclusive proof that, in making the first assessment, the State Board

of Equalization acted under duress and fear and in violation of the fundamental principle of taxation prescribed in the Constitution and in the statutes of Illinois, in that they did not exercise their judgment.

The act of the State Board of Equalization in making assessments was not a mistake of judgment. The rule for valuing property which the board followed was the opinion of the Supreme Court of the State of Illinois, the instruction of the judge of the Circuit Court of Sangamon County, and the writ of mandamus. The State Board of Equalization specifically, without ascertaining and determining the fair cash value of the property, obeyed the command of the court therein embodied.

It should be specially noted in this connection that in the mandamus case the only evidence introduced was introduced on behalf of the petitioners, no evidence being presented to the court on behalf of the respondents (Rec., 334) and that the valuations referred to by the court are based upon the stock market quotations on the various stocks of the corporations; and that the companies assessed upon the reassessment were not parties to the suit. Counsel for the Chicago Edison Company appeared in the Supreme Court and presented a petition asking leave to intervene, but the motion to intervene was refused. The only defenses made to the suit were defenses of law: that the petitioner haid failed to make a case; that the petition was prematurely filed; that judgment was rendered too late; that the court was without jurisdiction to coerce the board by mandamus.

2. THE STATE BOARD OF EQUALIZATION DID NOT EQUALIZE THE ASSESSMENT SO MADE WITH THE ASSESSMENTS OF OTHER PROPERTY IN THE STATE OF ILLINOIS.

Equalization is the primary duty of the State Board of Equalization, both with reference to assessments within the original jurisdiction of the local assessors and assessments within the original jurisdiction of the State Board of Equalization. In making the reassessments the Board did not equalize.

As was said by Judge Clark in the case of *Nashville, & St. L. R. R.* v. *Taylor*, 86 Fed., at page 184:

> "The Board of Equalizers construe the statute as requiring them to take the curious and self-inconsistent position that they are created a board of equalization, but without the power to equalize."

Equalization by the State Board of Equalization is the statutory method of executing the mandate of the Constitution, which provides, for the purpose of securing uniformity in valuations, that every person and corporation shall be taxed *in proportion to the value of his, her or its property.*

In *Law* v. *People*, 87 Ill., 405, the Supreme Court of Illinois held that it was their mandatory duty to equalize, saying:

> "That which the Constitution imposed was the higher duty and the State Board was not at liberty to disregard its provisions." (page 406.)

In *Railroad and Telephone Cos.* v. *Board of Equalizers*, 85 Fed., 302, the court said (pages 305, 306):

> "If the board of equalization was under a duty to equalize, a mistaken view that such was not its

duty could not change the law, and could not render a result legal which would otherwise be illegal. * * *

"The Constitution is the paramount law of the land, and its mandatory directions impose a duty upon the legislature in the exercise of the taxing power, and equally upon every administrative board or agency provided for the execution of the tax system. If there is a discrimination against this species of property, imposing an unconstitutional burden thereon, the result cannot be sustained; and this is equally so whether such a result is due to erroneous action by the board, or to defect in the legislation, in not requiring equalization, and furnishing the means whereby this might be made real and effective. If the legislature had, in terms, undertaken to exempt this board from the duty of equalization, no person of ordinary intelligence would make any question that such act would have been unconstitutional."

By the cases heretofore cited upon the subject of due process of law, it has been shown that the failure to observe every regulation which an act or the Constitution of a state prescribes for the protection or in the interest of the property owner is a violation of the constitutional guaranty of due process. (*C., B. & Q.* v. *City of Chicago, supra.*)

The direct testimony of the members of the State Board of Equalization who testified in the court below on behalf of complainants is that, in making the assessment for the year 1900 in the year 1901, they deducted absolutely nothing from the full values of the properties of appellee as determined by them, in order to equalize them with the assessments made upon other property in the state; that the property throughout the state was not assessed at a valuation greater than

from fifty to seventy per cent. of the full value; but that, in making the assessment of the capital stock of appellee for the year 1900 in the year 1901, 30 per cent. of the full value was deducted, in order to equalize that assessment with the assessments of other property throughout the state. (See testimony of Mr. Barnes, Rec., 115 to 117; also, testimony of Mr. Martin, Rec., 133, 136 and 137; also testimony of Mr. Cruttenden, Rec., 140; also, testimony of Mr. Hirsheimer, Rec., 158.)

Inasmuch, therefore, as equalization by the Board of Equalization is a fundamental requisite under the law of the land, to insure equality and uniformity of taxation, and, inasmuch as it is shown in the case at bar that the State Board of Equalization omitted this requisite step in making the re-assessment for 1900, we insist that there has been a violation of the constitutional guaranty of due process assured to appellee by the Fourteenth Amendment to the Federal Constitution.

(3) THE RE-ASSESSMENTS MADE BY THE STATE BOARD ARE SO GROSSLY EXCESSIVE AS TO AMOUNT TO FRAUDULENT ASSESSMENTS.

In *People ex rel. Goggin* v. *State Board of Equalization* (Rec., 321) the mandamus case herein referred to, the court held that the original assessment on the capital stock of appellee for 1900 was so low as to amount to a fraudulent assessment, and no assessment at all. This knife cuts both ways, for it has also been held in Illinois that an assessment that is a gross overvaluation of property amounts to a fraudulent assess-

ment. The Supreme Court of Illinois, in the mandamus case at page 326 of the record, said:

> "We have repeatedly held that an assessment may be impeached on the ground that property has been fraudulently assessed at too high a rate. * * * The converse of the proposition must be true, and an assessment may be impeached where the assessment has been fraudulently made at too low a rate."

A fair and just assessment is the only legal assessment, and the law of the State of Illinois requires that assessors shall, as a part of the process of assessment, fairly value the property. Therefore, to fail to observe this regulation made for the protection of appellee's property is to deprive it of its property without due process.

The following facts shown how grossly overvalued the property of appellee was. The scheme by which this result was brought about has already been shown in the statement of facts at the beginning of this brief and in paragraph (1), *supra.*

The re-assessment for 1900 was made November 22, 1901, against each of the lessor companies of the Chicago Union Traction Company, separately (although none of them possessed any tangible property whatsoever) and against the Chicago Union Traction Company, as follows:

SCHEDULE "B."

Showing the valuation and assessment by the State Board of Equalization upon the capital stock, including the franchise of the companies and associations hereinafter named, incorporated under the laws of the State of Illinois, other than railway companies; for the year 1900, being the equalized value of the capital stock, including the franchise, over and above the assessed value as equalized, of the tangible property of such corporations assessed by local assessors.

	Amount of Capital Stock paid up, as reported by company.	Full Value of capital stock including franchise, as fixed by State Board of Equalization.	Assessed value of capital stock, including franchise, as fixed by State Board of Equalization.	Equalized value of tangible property, assessed by local assessors, deducted under requirements of section 3, Revenue Law.	Net assessment of capital stock, including franchise, being excess of equalized value of capital stock and debt over tangible property assessed by local assessors.
West Chicago Street Railroad Company	$13,189,000	$24,071,100	$ 4,814,220		$ 4,814,220
North Chicago Street Railroad Company	7,920,000	18,208,000	3,641,600		$ 3,641,600
Chicago Union Traction Company	32,000,000	10,600,000	2,120,000	$ 2,090,630	29,370
Chicago Passenger Railway Company	1,340,000	1,740,000	348,000		348,000
Chicago West Division Railway Company	1,250,000	10,602,500	2,120,500		2,120,500
North Chicago City Railway Company	500,000	5,100,000	1,020,000		1,020,000
Totals	$56,199,000	$70,321,600	$14,064,320	$ 2,090,630	$11,973,690

(Rec., 1069.)

For the purposes of taxation, the Chicago Union Traction Company is the sole owner of said property and franchises; and it was wrong to assess any property or franchise, independently, against each

of the said lessor companies of the Chicago Union Traction Company.

Huck v. *Chicago and Alton R. R. Co.*, 86 Ill., 352.

C., B. Q. R. R. Co. v. *Cole*, 75 Ill., 591.

Kennedy v. *St. L. R. R. Co.*, 62 Ill., 395.

In the original assessment for 1900 made in 1900, these lessor companies had been assessed as the property of the Chicago Union Traction Company in one assessment against the Chicago Union Traction Company. They were not omitted as claimed by counsel for appellant. The same was done in making the assessment for 1901.

The parts of the record heretofore referred to show how the State Board arrived at these valuations.

Their information concerning values came from the record in the mandamus case, from a printed statement of values furnished by two Chicago school teachers. They consulted the attorneys for the petitioners in the mandamus case, and followed the example given in the Supreme Court's opinion in that case which was based on par for stock and par for bonds, not upon a calculation of the real value of the property assessed.

They did not consider the evidence of value and the information as to the properties furnished by the companies. Such method could not, except by the merest accident, have resulted in anything but excess and unfairness; and in the case of the Chicago Union Traction Company, the valuation they arrived at, as the full cash value, $70,321,-

600, is more than double the highest possible valuation of its properties.

In view of the precarious condition of the various street licenses or franchises for street occupancy of the Chicago Union Traction Company and its lessor companies, many of which under definite time limits were rapidly expiring, and in view of the contest as to the validity and extent of the so-called "99-year act," which has since been passed upon by this court (*Blair* v. *Chicago* 201 U. S., 400), the fair cash value of the entire property and franchises of the Chicago Union Traction Company, and its five lessor companies was not, on April 1, 1900, nor in November and December, 1901, upon the highest estimate of fair cash value, giving to the lines covered by expiring ordinances and the lines covered by ordinances of doubtful duration the longest possible life, greater than $22,000,000 to $27,000,000, full value. (Rec., 264, 269 and 270.)

As determined by capitalizing at 6% the net income of the Chicago Union Traction Company for the year ending June 30, 1900 (being the company's fiscal year during which April 1, 1900, fell) the full value of all its and its lessors' property, including the franchises, was $33,198,262.67. (Rec., 267, 95 and 42.) The basis of this calculation is that all the lines are to be operated, on the same terms, perpetually so as to insure a constant, continuing income at least equal to the income in that year. (Rec., 285-286.)

George A. Yuille, called by *appellants* as a witness in their behalf, testified that in view of the uncertain conditions of the rights of street occupancy of

the Chicago Union Traction Company and its lessor companies, of which a substantial portion were claimed by the City of Chicago to expire, under the extension ordinance of July 30, 1883, on July 30, 1903, the entire value of the properties of all of said companies, real, personal and mixed, and the so-called ordinance rights or franchise rights, whether derived by ordinance from the City of Chicago, or derived by acts from the General Assembly of the State of Illinois, was not equal to the face value of the bonds, which, in round numbers, amounted to $26,000,000; and that in his opinion, if the contention of the City of Chicago were sustained, the entire property owned and controlled by the Chicago Union Traction Company was insufficient by at least one-half to pay the aforesaid indebtedness of between twenty-five and twenty-six millions of dollars. (Rec., 343 to 345.)

This court knows, from its own records, that the claims of the City as to the duration of the franchises of these companies have been sustained to so large an extent as to wipe out practically all valuable franchises on the North Side, and a large portion of those on the West Side of the City, leaving a dismembered system, operated at present only on sufferance of the City of Chicago by receivers appointed by the Circuit Court of the United States; and that the cause of the receivership was in a large measure the dispute between the City and the companies over the extent of the rights of street occupancy.

The length of the time that the companies had the power to occupy the streets, Mr. Yuille further testified, was an element to be taken into consideration to determine the value of the securities of the companies

for the year 1900. The earning capacity of the company was larger in 1904 than in 1900, yet the stocks had in 1904 fallen below their value in 1900 by a large margin, and this was due to the fact that the rights of street occupancy were the subject of litigation and in a large part denied by the City of Chicago. (Rec., 344-345.)

The record further shows that in making the re-assessment of 1900, no account was taken of the fact that other property throughout the state was assessed at from 50% to 70% of its full value, and the re-assessment against the Chicago Union Traction Company was not equalized so that its property was not assessed upon a uniform basis with other property throughout the state. When, however, the assessment for 1901 was made within one month of the re-assessment for 1900, the assessment was equalized with other property in the state at 70% of its full value. (Rec., 115 to 117, 135 to 137, 146, 154 and 158.)

The record further shows that the rule of the State Board of Equalization, known as Rule 28, adopted November 22, 1900, at the session of said board on said day, had been held invalid by the Supreme Court of Illinois in the mandamus case. (Rec., 333 to 334 and 1072.) No new Rule 28 was adopted by the board for valuing the capital stock of corporations until December 5, 1901. (Rec., 1073.) Therefore, at no time during the session of 1901, prior to December 5, 1901, were there any valid subsisting rules of the Board for the valuation of the capital stock of corporations. The only rule for valuing capital stock, which the board felt it could adopt, under the

circumstances, was the mandate, the opinion of the Supreme Court, and the directions of Judge Thompson. When the new rule was adopted on December 5, 1901, it corrected the defects pointed out by the Supreme Court, and contained the provision that the State Board of Equalization, after having valued the capital stock and indebtedness, "shall then equalize said amount so obtained, so that said companies or associations shall be assessed as near as practicable upon a uniform basis with other property throughout the state"; and this rule, in an opinion by the Attorney General given to the board, was held legal. (Rec., 1075.) The assessment made December 23, 1901, for the year 1901, was made under and pursuant to this rule. (Rec., 115-117.) The statute of Illinois provides, that such rules, when adopted, if not inconsistent with the statute, shall be as binding and of the same effect as if contained in the act. (Rec., 330.)

The fact that the board did not equalize the re-assessment for 1900 but did equalize the assessment for 1901, does not account for the tremendous discrepancy in their two valuations made in 1901 within one month of each other. The difference between the two is $6,919,112, which is about 58 per cent. of $11,973,690, the amount of the re-assessment. Their own testimony is that in making the 1901 assessment of $5,053,588, they deducted 30 per cent. to equalize. Hence, even if equalized at 70 per cent., the 1900 re-assessment would still exceed the 1901 assessment by 28 per cent.

The making of such an assessment so grossly excessive amounts to a confiscation of property and, being

in the language of the Supreme Court of Illinois so grossly excessive as to amount to a fraudulent assessment, it is a deprivation of appellee's property without due process of law, which in Illinois requires a fair valuations.

(4) OTHER CORPORATIONS OF THE SAME CLASS WERE NOT ASSESSED ON THE SAME BASIS.

Discrimination and unauthorized classification are contrary to the principle of equality in taxation prescribed by the Constitution and statutes of Illinois and a discriminating assessment does not constitute a due observance of the regulations of the law of the land made for the protection of appellee's rights, under the definition of due process above referred to.

The corporations re-assessed in 1901 for the year 1900, appellees in the appeals now before this court, are the seven largest, and most important, public service corporations of Chicago. They, alone, out of all the hundreds of corporations in Illinois who were placed by the statute for taxation purposes in the same class, and whose capital stock was assessable in 1900 by the State Board, were selected, and a different rule of valuation and assessment applied to them than was applied to any others. (See Equal Protection of Law, under Division III, *infra.*) The result was a tremendous overvaluation. Such action is contrary to all rules of equality laid down in the Constitution and laws of Illinois.

This court has had occasion to pass upon a similar case coming up from Ohio, the case of *Cummings* v. *Bank*, 101 U. S., 153.

In this case suit was begun by a National Bank in the Circuit Court for the Southern District of Ohio to enjoin the Treasurer of Lucas County from collecting a tax against the bank. The foundation for the suit was that, by a rule or system adopted by the assessors, banks were being discriminated against, and their property was being valued at a much greater percentage of the real value thereof than other property in the state, contrary to the provisions of the State Constitution. By virtue of the bank's organization under the National Banking Law, it could sue in the United States Courts.

In the course of the opinion on pages 157-158, the court said:

> "We are of opinion that when a rule or system of valuation is adopted by those whose duty it is to make the assessment, which is designed to operate unequally and to violate a fundamental principle of the constitution, and when this rule is applied not solely to one individual, but to a large class of individuals or corporations, that equity may properly interfere to restrain the operation of this *unconstitutional exercise of power.** That is precisely the case made by this bill, and if supported by the testimony, relief ought to be given."

The only ground of invalidity of this tax was overvaluation as compared with other property. There was no claim, as far as appears in the this court's opinion, that the property was not worth the amount of the assessment; in other words, that the property itself was overvalued. Yet the Circuit Court granted the injunction, the complainant having paid to the defendant or into the court for his use, "the tax which

*Italics are ours.

was its true share of the public burden," and this court affirmed the decree.

Mr. Chief Justice Waite dissented, and his short dissenting opinion is instructive, as showing how much stronger our case is than the *Cummings* case. He said in part (pp. 163-164):

> * * * "if a state provides by a valid law for valuation of property for taxation, and furnishes appropriate tribunals for the correction of errors before a tax is assessed if complaint is made, I think it is not within the power of a court of equity to enjoin the collection of the tax simply because of an inequality in valuation,—and this as well when the error arises from the adoption by the valuing officers of a wrong rule to many cases, as from a mistake in judgment as to a single case. The valuation as finally fixed by the proper officers, or equalizing board, under the law, is, in my opinion, conclusive when there has been no fraud."

In the case at bar there is what is equivalent to fraud upon the companies, an undue influence, duress and coercion, which in equity are treated as fraud is treated, upon the State Board of Equalization when they made the assessment. There was no "mistake in judgment" in our case, but a peremptory instruction and mandate which they felt compelled to obey contrary to their judgment.

Mere overvaluation, unless resulting from what amounts to fraud, may not be enough in equity to render invalid an assessment made by a board having jurisdiction to make the assessment; but here we have, as hereinbefore shown, complied with discrimination in the same class, a fraudulent overvaluation, similar to that upon which relief was granted

in the mandamus case and cases there cited, and the rule, in the Illinois state courts and in the federal courts is well established, that equity will declare void and restrain the collection of a tax based on an overvaluation due to fraud, fraud being a recognized equitable head.

Illinois cases:

Porter v. *Railroad Co.*, 76 Ill., 561-596.
C., B. & Q. R .R. v. *Cole*, 75 Ill., 591.
Pacific Hotel Co. v. *Lieb*, 83 Ill., 602.
La Salle & Peru Horse & Dummy R. R. Co. v. *Donoghue*, 127 Ill., 27.
Williams v. *Dutton*, 184 Ill., 608.
Coxe Bros. v. *Salomon*, 188 Ill., 571.

Federal court cases:

Dows v. *Chicago*, 11 Wall., 108.
Cummings v. *Bank*, 101 U. S., 153-156.
Union Pacific Ry. Co. v. *Cheyenne*, 113 U. S., 516-525.
Allen v. *B. & O. Ry. Co.*, 114 U. S., 311.
Pacific Express Co. v. *Liebert*, 142 U. S., 339-348.
Ogden City v. *Armstrong*, 168 U. S., 224-237.
Bank v. *Dodge*, 197 U. S., 70-75.
Sandford v. *Poe*, 69 Fed., 546-547.
West. Union Tel. Co. v. *Norman*, 77 Fed., 13-21.
Central Pacific Ry. Co. v. *Evans*, 111 Fed., 71-74.
Dundee Mortgage & Inv. Co. v. *Parish*, 24 Fed., 197-202.
Balfour v. *Portland*, 28 Fed., 738-739.

Railroad & Tel. Cos. v. *Equalizers,* 85 Fed., 302-305.
Taylor v. *L. & N. R. Co.,* 88 Fed., 351-374.

These cases also dispose of counsel's contention that there is no ground of equity jurisdiction in this case.

(5) THE APPELLEE HAD NO HEARING AS TO THE POWER OF THE BOARD TO RE-ASSESS OR AS TO THE VALUE TO BE PLACED ON ITS PROPERTY.

Somewhere in the proceedings for levying a tax there must be an opportunity afforded for the person whose property is to be taxed to be heard.

Hogan v. *Reclamation Dist.,* 111 U. S., 701.
Kentucky R. R. Cases, 115 U. S., 321.
Davidson v. *New Orleans,* 96 U. S., 104.
Fallbrook Irrigation Co. v. *Bradley,* 164 U. S., 157-8.
Kennard v. *Morgan,* 92 U. S., 480.
Wurtz v. *Hoagland,* 114 U. S., 606.
Lent v. *Tillson,* 140 U. S., 316.
Spencer v. *Merchant,* 125 U. S., 345.
Walston v. *Nevin,* 128 U. S., 345.
Stuart v. *Palmer,* 74 N. Y., 183.

If the hearing is provided for, either by a hearing with the assessing officers when considering the assessment and before their action becomes final, or by appeal to the courts as a part of the proceeding before the tax can be collected, there is no denial of due process of law. But there is no provision for a hearing in a court as a part of the taxing machinery before collection can be made in Illinois. The collector has the

power to distrain immediately upon making a demand, and in this case no real hearing was had before the board.

Appellees in these pending appeals were not parties to the mandamus proceedings, and had no opportunity to be heard as to the legal right of the State Board to make the re-assessment. They were necessary parties to that proceeding.

In the case of *Powell* v. *The People,* 214 Ill., 475, a mandamus proceeding was instituted against the civil service commissioners to compel them to cancel the certificate of eligibility of an officer appointed by them, remove him from office and certify the name of the petitioner in his stead. The court held that the officer to be removed was a necessary party without which the court had no jurisdiction to proceed, and stated the law of Illinois to be that, where in a proceeding for mandamus the proceedings show that parties within the jurisdiction of the court have a legal interest which will be collaterally determined by the judgment, if rendered as prayed in the petition, the court is without jurisdiction to adjudicate the cause until such person has been made a party; and that the omission of a necessary party to a petition for mandamus, which appears upon the face of the record, requires the reversal by the Supreme Court of its own motion of the judgment awarding the right, notwithstanding that no plea based upon such omission was filed and no objection was made by either party, calling attention to the omission.

The companies had no opportunity to be heard before the board on the question whether or not the

board had a right to re-assess. The board was acting under the command of the mandamus writ, and felt they had no discretion; that they were bound to re-assess the properties named in the writ, no matter what showing the companies should make.

In the case at bar, it is true that the attorney for appellee went before the board so the mere form of hearing was had, but the board gave them no real hearing as to the right to re-assess or as to valuations.

We submit, however, that the constitutional guaranty means something more than a mere idle, empty form. It means and demands that one whose property is to be taken from him, through the taxing powers of the state, shall have a hearing that is in fact a hearing, such a hearing as is considered a hearing in a court of justice; an opportunity of showing to the court the real value of their properties and the merits of their contentions. In this case there was no real hearing, but an empty appearance before a board which considered itself bound to ignore all facts but the mandate of the Circuit Court.

The law regards the substance not the form of what is done.

C., B. & Q. v. *Chicago,* 166 U. S., 226.

Such a mere form of hearing, utterly devoid of substance, does not conform to the standard laid down by Mr. Webster in the Dartmouth College case to the effect that due process of law is "a law which hears before it condemns, which proceeds upon inquiry and renders judgment after trial."

It cannot, therefore, be said there was a hearing, in

the real meaning of the term, when the sole object of the proceeding was to satisfy the supposed desires of the Circuit Court, and the members of the board who were witnesses all testified that they thought they had no discretion under the mandate. (Rec., 129, 130, 133, 144, 158.)

That the board's consideration of the evidence offered in the mandamus proceeding could not amount to a hearing on behalf of this appellee is made manifest by the fact that the appellee was not a party to this mandamus proceeding and the only evidence offered there was by the relators.

In the language of Mr. Choate in his argument in *Fallbrook Irrigation Co.* v. *Bradley,* 164 U. S., 150:

> "The spirit of the constitutional rule is that they shall have real bread in the matter of a hearing, and this would put them off with nothing but a stone."

Counsel for appellants contend that because Mr. John S. Miller, the attorney of the State Board of Equalization in the mandamus proceedings received compensation from the corporations whose property was sought to be re-assessed in that proceedings, that these companies were really parties to that action. The rule is well settled, however, that one is not such a party to a proceeding unless they have a right to and are given an opportunity to make a defense, control the proceedings, examine and cross-examine witnesses, and to apepal from the judgment or decree in case an appeal lies.

Lovejoy v. *Murray,* 3 Wall., 1.
Flanders v. *Seelye,* 105 U. S., 718.

Litchfield v. *Goodnow*, 123 U. S., 549.
Greene v. *Boyne*, 158 U. S., 478.

It will not be claimed that these corporations had any such rights as the above rule requires. On the contrary, Mr. Miller testified that he did not represent the corporations re-assessed; that they did not shape, or control the policy of the defense at all; that he had no conference with any attorney respecting the conduct of the defense of the case. (Rec., 295-297.) Mr. Beale testified that Mr. Miller followed his own [Mr. Miller's] line of defense; and would not adopt the line of defense suggested by Mr. Beale. (Rec., 185.)

We submit, therefore, that the mere formal hearing had before the board was not sufficient to comply with the requirements of "due process of law."

D

THE MEMBERS OF THE STATE BOARD OF EQUALIZATION WERE COMPETENT WITNESSES.

Objection has been made by counsel for appellants to the admission of the testimony of member of the State Board of Equalization, who were also members of the Capital Stock Committee, on the ground that members of the State Board of Equalization are not competent witnesses to prove the manner of making such assessment, and cannot be allowed by their own testimony to contradict the report of their acts contained in the published proceedings of the State Board of Equalization. We submit that the only possible way to prove the fact that the judgment of the State Board of Equalization as expressed in the published proceedings of the Board is not their real judgment is

by the testimony of the members of the Board themselves. As was said by the court in *Railroad and Telegraph Companies* v. *Board of Equalizers*, 85 Fed., 302, 3117-317, those assessed are entitled to know the actual process by which their property has been assessed.

It was formerly a rule laid down in the early English cases that an official who has certified to a specific fact cannot later be allowed to testify in contradiction of the fact so certified. In *Wigmore on Evidence* there is an excellent discussion of this general matter, and after a thorough review of the authorities and of the principles governing them, the law is ably summed up as follows:

> "A notion almost identical with that underlying the rule of *Walton* v. *Shelly* has led to the argument that an official who has certified to a specific fact as known to him to have occurred will not be allowed to testify in contradiction to the certificate that the facts were otherwise than as certified. * * * The notion has no better grounds for support here than elsewhere. If the certificate is not absolutely conclusive (*post* paragraphs 1345-1352), but may be otherwise shown to be incorrect, then the official should be clearly competent. The official doubtless should be punished, but not the party needing his testimony. The official is clearly capable of falsifying, but the value of his testimony should be left to the jury. * * * That such testimony is properly admissible ought not to be doubted in view of the general denial in modern times of the analogous doctrines of *allegans suam turpitudinem*. 1 *Wigmore on Evidence*, 350.

The proceedings of the State Board of Equalization of Illinois are proceedings published in compli-

ance with the statute and the proceedings for each year embody the final judgment of the State Board of Equalization upon assessments within their jurisdiction. These reports and the judgment therein contained are not absolutely conclusive, but are still impeachable for fraud or upon any other ground for which an ordinary judgment or assessment is impeachable. The only direct way to prove fraud, except upon the face of the report of the proceedings, is by the testimony of members of the State Board of Equalization.

The question as to whether or not the members of the State Board of Equalization of the State of Illinois are competent witnesses, under such circumstances, has been directly decided by the Supreme Court of Illinois in the mandamus case. (*People ex rel. Catharine Goggin and Margaret Haley* v. *State Board of Equalization*, 191 Ill., 528.) In this case at page 550-551 the Supreme Court of Illinois said:

> "To meet the case made by the petitioner the respondents introduced no evidence, their insistence being that the petitioner had failed to make a case; that the judgment was rendered too late and that, in any event, the court was without jurisdiction to review the action of the State Board of Equalization or to coerce it by a writ of mandamus. *This is a civil suit and the members of the Board were competent witnesses, and if it were true that the capital stock, including franchises, of said corporations were about to be or had been fairly and honestly valued and assessed, it would have been an easy matter to have explained to the court the methods pursued by them in reaching the results which they obtained and to have shown to the court that such results were proper and legal.*"

The federal courts, including the Supreme Court of the United States have frequently received, and have relied upon, and considered and decided the merits of a suit upon, the testimony of equalizers in cases almost identical with the one at bar. Such testimony was considered in the following cases:

Cummings v. *Bank,* 101 U. S., 153.

Pelton v. *Commercial Nat'l Bank of Cleveland,* 101 U. S., 143.

Backus v. *Pittsburg, etc., Ry.,* 154 U. S., 421 434.

Fargo v. *Hart,* 193 U. S., 490-500.

Coulter v. *Louisville & Nashville Ry.,* 196 U. S., 599.

Louisville Trust Co. v. *Stone,* 107 Fed., 307.

Cincinnati Southern Ry. v. *Gunther,* 19 Fed, 395-399.

First Nat'l Bank v. *Treasurer Lucas Co.,* 25 Fed., 749.

In the first two above cited cases the testimony of equalizers was introduced for the purpose of showing that shares of banks were assessed generally higher than other personal property, and that such discrimination was not the result of an accident or a mistake, but was the deliberate act of the equalizers done pursuant to a systematic rule of assessment adopted by them to govern their action in the valuation of all shares of national banks. In *Coulter* v. *Nashville Ry. Company, supra,* this court examined into the merits of the case, the testimony in support of which consisted largely in the testimony of the officers of the state who made the assessment as to the manner and method

and operation of their minds in making such assessment. It is true that this court designated this method of proof as anomalous, but considered the evidence, passed upon it and dismissed the bill because the allegations were not sustained by the evidence, not, however, upon the ground that the witnesses were incompetent to testify.

It may well be, in a case where an officer is called to impeach a record or return, the officer is incompetent to testify, but such is not the case made by the bill and record now before this court on appeal. The officers are the members of the State Board of Equalization and their testimony was introduced to explain and not to contradict or impeach their record. We admit that the record is, as it purports to be, correct as to what the amount of the assessment was and as to the fact that the assessment was made, reported and the like. The testimony, however, does not go to these facts, but to the manner of making of the assessment and the circumstances under which the assessment was made and the influence that was brought upon the Board to make the assessment as made.

It is well to repeat in closing upon this subject that the assessment returns embodied in the State Board of Equalization's reports are not unimpeachable. They may be impeached like any other judgment on sufficient grounds, as for fraud or want of jurisdiction. We have shown in the present case that which is equivalent to fraud, that is, an assessment which is so excessively high as to amount to a fraudulent assessment, and which is, therefore, null and void. Our contention is similar to that of the

petitioners in the mandamus case. They insisted and the Supreme Court of Illinois held that the original assessment for 1900 made in the year 1901 was so low "as to amount in law to a fraudulent valuation and assessment and therefore to amount to no assessment at all."

FOUR OUT OF SEVEN MEMBERS OF THE CAPITAL STOCK COMMITTEE TESTIFIED.

Counsel for appellant in his brief urges that only four out of the twenty members of the board, who adopted the report of the Capital Stock Committee making the assessment complained of, were called to the witness stand; and that such a small percentage of those who adopted the report cannot be considered as of any value.

The record is clear that none of the members of the board outside of the Capital stock Commitee had anything to do with the making of this assessment. The State Board of Equalization, like any other similar large body, acts by committees in making all assessments and one of those committees is called the Capital Stock Committee. It is composed of seven members, who were, in the year 1901, Mr. Cruttenden, Mr. McKnight, Mr. McComb, Mr. Cadle, Mr. Hirsheimer, Mr. Martin and Mr. Barnes, who was chairman. This Capital Stock Committee make the assessments and submit their report of values to the board with a recommendation for adoption. (Rec., 104 and 119.) In the adoption of this re-assessment for the year 1900 in the year 1901, the State Board of Equalization gave absolutely no consideration to the report of the Capital

Stock Committee, but took their recommendation without consideration and adopted it without modification or criticism. (Rec., 1070.) The other members of the board knew nothing about and had nothing to do with the making of this assessment. They took the word of the Capital Stock Committee.

Of these seven members of the Capital Stock Committee, the four members who had most to do with the making of the assessment were called by appellee to testify. Those who did the principal part of that work were Mr. Hirsheimer and Mr. Cruttenden. (Rec., 135 and 147.) Another member of the committee, Mr. McKnight, was called as a witness by appellant, but he was in no wise questioned upon this subject by appellants. Appellants did not seek by him to contradict the testimony of the other four members. It, therefore, appears that four members of the Capital Stock Committee who made the assessment were called as witnesses; and that they testified to the facts as contended for by appellee.

III.

APPELLEE HAS BEEN DENIED THE EQUAL PROTECTION OF THE LAW.

The functions of the State Board of Equalization are two fold. In the first place it is the final Board which equalizes assessments made by local assessors in the various counties. In the second place it is a Board of original assessment of capital stock of corporations, including general railroad companies, and of "rolling stock" and "railroad track."

Its primary function is that of universal equalization, equalization of assessments made by the local assessors among the various counties, and equalization of the assessments made by the board itself with all other assessments.

The names of the committees into which the board is divided and through which it does its work indicate more clearly than anything else the purpose of the Revenue Act and the nature of the functions of the board. They are as follows:

Committee on equalization of personal property;
Committee on equalization of lands;
Committee on equalization of town and city lots;
Commitee on general equalization;
Committee on assessment of railroad property; and
Committee on assessment of capital stock of corporations. (Rec., 858.)

The duty of the board to equalize is not a matter of discretion, but a mandatory duty, and the violation of that mandate is the denial of the equal protection of the laws.

This question has been fully discussed by the Supreme Court of the State of Illinois in the case of *Law* v. *The People*, 87 Ill., 405, where that court said:

> "It will be conceded the statute makes it the duty of the State Board to assess corporate property at its fair cash value. Previous decisions of this court so declare the rule. *Porter* v. *Rockford, Rock Island and St. Louis Railroad Co.*, 76 Ill., 561; *Chicago, Burlington & Quincy Railroad Co.* v. *Cole*, 75 Ill., 591. No omission of that duty is shown. As we understand the record, the State Board did estimate the fair cash value of all that class of property which the law made it their

duty to do, and their action in that respect is not called into question. As we have seen, all other property in the state had been assessed at one-half its cash value. Under the law, the State Board had no power to increase the aggregate valuation beyond one per cent. on such aggregate assessed valuation. It became a question, what was to be done? Whatever may be the statutory injunction as to making valuations of property for taxation, the controlling authority as contained in the Constitution is, it shall be so valued that every person and corporation shall pay a tax in proportion to his or its property. Under the circumstances, had the State Board set down the property of corporations at its fair cash value, as ascertained for the purpose of taxation, then such property would have been subjected to an increased taxation in proportion to property of other owners, which the Constitution positively inhibits. Observing the constitutional injunction rather than a literal compliance with the statute, the State Board equalized the valuations of that class of property at the same ratio adopted by local officers in fixing valuations of other property in their several localities. Any other rule would have been most unjust as well as in contravention of the Constitution. Under the rule adopted every person and corporation is made to pay a tax in proportion to the value of his or its property. It was the only rule that could have been adopted to secure anything like uniformity in valuations for taxation. A strict observance of the statute in that respect, would have worked manifest injustice, as well as a plain violation of that constitutional requirement, that the burden of taxation should be made to bear equally upon all property, whether owned by private persons or by corporations. That which the Constitution imposed was the higher duty, and the State Board was not at liberty to disregard its provisions. This view of the law is sanctioned in *Bureau County* v. *Chicago, Burlington & Quincy Railroad Co.*, 44 Ill., 229."

In *Railroad & Telephone Cases* v. *Board of Equalizers,* 85 Fed., 302, a case very similar to this, the court said on page 305:

> "If the Board of Equalization was under a duty to equalize, a mistaken view that such was not its duty could not change the law, and could not render a result legal which would otherwise be illegal. * * * The constitution is the paramount law of the land and its mandatory directions impose a duty upon the legislature in the exercise of its taxing power, and equally upon every administrative board or agency provided for the execution of the tax system. If there is a discrimination against this species of property, imposing an unconstitutional burden thereon, the result cannot be sustained; and this is equally so whether such result is due to erroneous actions by the board, or to a defect in the legislation, in not requiring legislation and furnishing means whereby this might be made real and effective. If the legislature had, in terms, undertaken to exempt this board from its duty of equalization, no person of ordinary intelligence would make any question that such act would have been unconstitutional."

See, also:

Railroad Tax Cases, 92 U. S., 575.

THE STATE BOARD FAILED TO EQUALIZE THE VALUAIZE THE VALUATION OF APPELLEE'S PROPERTY WITH THAT OF OTHER PROPERTY IN THE STATE, AND ASSESSED APPELLEE ON A DIFFERENT BASIS FROM CORPORATIONS OF THE SAME CLASS.

The testimony of Mr. Barnes (Rec., 115 and 117) and of Mr. Martin (Rec., 133, 136 and 137) and of Mr. Cruttenden (Rec., 140) and of Mr. Hirscheimer (Rec., 158) that in making the re-assessment of appellee for the year 1900 in the year 1901 the State Board did not

equalize the value of the capital stock of appellee with other property in the state.

Mr. Cruttenden, Secretary of the Capital Stock Committee, testified (Rec., p. 145):

> "Q. Did you make any deduction because of the fact that other property had not been assessed to its full value?
> A. No, sir."

Mr. Hirsheimer testified (Rec., p. 158):

> "Q. In making up your report as to the values of these properties did you make any deduction whatever in order to equalize the value of these properties with the values of other property in the state?
> A. No, sir."

Mr. Martin testified (Rec., p. 133):

> "Q. Did you in making that re-assessment take into consideration what other property throughout the state was valued at?
> A. I did not."

Mr. Barnes, chairman of the Capital Stock Committee, testified (Rec., 115-116) having been asked in regard to equalization:

> "A. I have already answered it by saying in my testimony previous to this that we made no deductions for any purpose, equalization or anything else, in that assessment."

The statement appearing as Schedule "B" on page ..... in this brief, taken from the proceedings of the board for 1901, also shows that the State Board of Equalization, in making said re-assessment for 1900, took the full value of the capital stock, including the franchise, and did not equalize that full value by deducting any percentage of the capital stock so as to equalize it with the same percentage of value

at which other property in the state was assessed. It is true that in the last column of said schedule they designated $11,973,690 as the net assessment of capital stock, including franchise, being excess of *equalized* value of capital stock and debt over equalized value of tangible property as assessed by local assessors, but it is clear from the testimony and from the schedule that no equalization took place.

When the State Board of Equalization came to make the assessment on December 23rd, 1901, for the then current year of 1901, they did equalize the full value of the capital stock (see citation to these pages of the Record, *supra*, for testimony); and the headings of the columns of Schedule "A" containing the full value of the capital stock and the assessed value of the capital stock ascertained by them are changed in the year 1901 so as to read, respectively, "*full equalized value* of capital stock and franchise as determined by the State Board of Equalization," and "Assessed value of capital stock and franchise as determined *and equalized* by State Board of Equalization." (Rec., 1121.) Number 147 in said Schedule "A" is the assessment against Chicago Union Traction Company for the year 1901. These changes were made pursuant to the tenor of a resolution of the board announcing their rule for valuation for 1901, adopted December 10, 1901. (Rec., 1074.)

The practice of the State Board of Equalization under the act ever since its organization, as shown by its records, demonstrates conclusively that real and personal property in Illinois has never been assessed

at anything like its full cash value and that the board has almost unbrokenly taken this fact into consideration in making its assessments. (Rec., 938-939.)

The testimony of the members of the State Board of Equalization hereinabove referred to shows that other property in the State of Illinois, real and personal, was not assessed in 1900 at a greater rate than from fifty to seventy per cent. of its full value. The "Proceedings of the Illinois State Board of Equalization," for 1900, show on their face that the board equalized values of lands, town and city, lots, and personal property among the counties. (Rec., 938, 939.) The State Board of Equalization in making the assessments for 1900 in the year 1901 should, therefore, have assessed the property of appellee at a rate not greater than seventy per cent. of its full value.

The State Board of Equalization in making said reassessment for 1900 acted under the supposition that it had received definite instructions from the Supreme Court of the State of Illinois and from the Circuit Court of Sangamon County to assess certain corporations, including appellee, and that by the terms and mandate and under the opinion of the Supreme Court of the State of Illinois they were not allowed to make any deductions on account of equalization; that their function of equalization was, in other words, entirely taken from them. The writ of mandamus required the board to forthwith "value and assess the capital stock, including franchise, of each of the corporations, to-wit: West Chicago Street Railroad Company, North Chicago Street Railroad Company, Chicago

Union Traction Company, * * * Chicago Passenger Railway Company, and North Chicago City Railway Company, as of the first day of April, 1900, in the manner provided by law * * * so as to ascertain and determine, respectively, as to each of them the fair cash value of its capital stock, including franchise, over and above the assessed value of the tangible property of such corporation *on the first day of April,* 1900, and that in arriving at such valuation and assessment of capital stock, including franchises, of the corporations herein named, the State Board and the members thereof from the best information obtainable by it and them, shall ascertain and take into consideration, among other things, as to each said corporation as the same was *on April 1st,* 1900, the market value, and if no market value, then the fair cash value of its shares of stock and the total amount of all indebtedness, except the indebtedness for current expenses, excluding from said expenses the amount for purchase or improvement of property, and the assessed or equalized value of tangible property owned by said corporations, respectively, *on April 1st,* 1900." (Rec., 485.)

Nowhere in the writ or in any of the proceedings in the mandamus case in the Circuit Court of Sangamon County, or in the opinion of the Supreme Court, or in the instructions given by the judge of the Circuit Court of Sangamon County upon the refusal of the application for extension of time, was there any direction or expression that it was the duty of the State Board of Equalization, in making said re-assessment for 1900 in the year 1901, to equalize the full value of the capital stock

so to be ascertained by them with the value of other property in order to make the assessment an equal and fair assessment.

The State Board of Equalization in making the reassessment for the year 1900 believed that they were absolutely bound under the writ of mandamus to take only the steps therein directed, to wit, to re-assess the capital stock of the corporations named in the writ at the full cash value; then to take one-fifth of that full cash value; and then to deduct therefrom the assessed value of the tangible property which they had equalized, and thus obtain what is known under the Revenue Act as the net assessment on capital stock.

It will be apparent from the above that in deducting the *equalized value* of the tangible property from the *un*equalized one-fifth of the full value of the capital stock, a further injustice results to the appellee in that the value of the tangible property is reduced by equalization without likewise reducing by equalization the amount of the full value of the capital stock, thus increasing the net assessment. The result is like that in an ordinary example of subtraction in which the subtrahend is reduced without reducing the minuend, thereby increasing the remainder.

That this failure to equalize this assessment has created a discrimination cannot be better shown than by turning to pages 899-907 of the record where we find a list of all corporations assesed in 1900 (except steam railroads), setting out their amounts of stock, values, etc.

These net assessments for 1900, made in 1900,

against all the three hundred and thirty-four corporations contained in that list, including these twenty corporations, selected for the re-assessment, aggregated $4,808,630.

The original net assessment for 1900, made in 1900, against these twenty appellee companies aggregated $2,400,000, or nearly one-half of the total net assessments of all corporations so assessed.

The other three hundred and fourteen corporations were assessed $2,408,630, as the net assessment.

It is fair to suppose, and a glance at the list will convince any one of the fact, that all the other corporations assessable by the Board, except railroads, were, in that assessment for 1900, in 1900, assessed on the same basis as these twenty.

The total net assessment of the capital stock of these twenty corporations made pursuant to the mandate of the Circuit Court amounted to $32,733,457 (Rec., pp. 1065-1069) or nearly fifteen times the total net assessment, for that year, on the capital stock of the other three hundred and fourteen corporations.

This clearly shows that the rule of valuation adopted by the board and its failure to equalize the re-assessment made in 1901, compelled these twenty corporations to pay fifteen times as much in proportion to the actual value of their stock as any other like corporation in the state.

As we have shown the valuations adopted for the current assessment for the year 1901 represented the real judgment of the board. We turn to the list of similar corporations taxed in the same manner in the year 1901 and find that there were 749 so assessed.

The total net assessment against all these 749 corporations including these twenty companies, amounts to $21,477,943, or eleven millions dollars less than the net re-assessment against these twenty companies alone, made the previous year pursuant to the writ of mandamus.

This situation brings us to the case of **COULTER v. LOUISVILLE & NASHVILLE R. R. CO., 196 U. S., 599.** In that case this court (Mr. Justice Holmes delivering the opinion) decided that, inasmuch as the claim of right under the Fourteenth Amendment to the Constitution of the United States therein presented was not merely colorable, this court would pass upon the merits of the case and determine upon the evidence whether or not the Federal Constitution had been violated. (page 609.) That is our case.

This court in the *Coulter* case held that the evidence was too uncertain to warrant an attack upon the action of the board of equalization of Kentucky under the Fourteenth Amendment, and that the evidence of the under valuation of other property was uncertain and indefinite and contradictory and that the complainants had failed to make out a case showing a scheme of under valuation.

In the case at bar, there is no uncertainty in the evidence. The proof of the scheme of under valuation of other property, the proof of the failure to equalize the assessment as made, the proof that the assessment as made is an over valuation, also pursuant to a scheme, the proof that this class of corporations was selected and assessed upon a different basis from other persons and from cor-

porations of the same class in the state, is certain upon the record. In fact, no evidence that these facts were otherwise than as proved was offered on the part of the defendants below and the evidence introduced by complainants below is nowhere contradicted upon the record.

In the case at bar there can be no doubt that there was a "conscious adoption" (p. 607, *Coulter Case*) of a different standard from the method adopted by the county boards, but also a "conscious adoption" of a different method by this very board in regard to appellee's property from the method adopted by it in regard to all other property.

We, therefore, insist that the very elements which were lacking in the *Coulter* case are present in this case and that the decree of the lower court should be affirmed. That case is conclusive upon appellants.

Upon the subject of equal protection, we beg leave to refer, also, to the following cases.

In *County of San Mateo* v. *So. Pac. R. R. Co.,* 13 Fed., 722, on page 733 Mr. Justice Field said:

> "The Fourteenth Amendment to the Constitution, in declaring that no state shall deny to any person within its jurisdiction the equal protection of the laws, imposes the limitation upon the exercise of all the powers of the state which can touch the individual or his property, including among them that of taxation. Whatever the state may do, it cannot deprive anyone, within its jurisdiction, of the equal protection of the laws. * * * It not only implies the right of each to resort, on the same terms with others to the courts of the country for the security of his person and property * * * but also his exemption from any greater burdens or charges than such as are equally im-

posed upon all others under like circumstances. Unequal exactions in every form, or under any pretense, are absolutely forbidden, and of course unequal taxation, for it is in that form that oppressive burdens are usually laid. It is not possible to conceive of equal protection under any system of laws where arbitrary and unequal taxation is permissible."

In *County of Santa Clara* v. *Southern Pacific Railroad,* 18 Fed., 385, on p. 397, the court by Mr. Justice Field, said:

"The first section of the Fourteenth Amendment places a limit upon all the powers of the state, including, among others, that of taxation."

And also:

"The 'equal protection of the laws' to any one implies not only that the means for the security of his private rights shall be accessible to him on the same terms with others, but also that he shall be exempt from any greater burdens and charges than such as are equally imposed upon all others under like circumstances. This equal protection forbids unequal exactions of all kinds and among them, that of unequal taxation."

These cases come into this court on error and the court took jurisdiction and decided them on the merits.

Santa Clara Co. v. *So. Pac. Ry. Co.,* 118 U. S., 394.

In *Railroad & Telephone Companies* v. *Board of Equalizers,* 85 Fed., 302, the property of the complainants was assessed at its full value while other property was assessed at not more than 75 per cent. of its actual value, and this was done by means of a rule of valuation adopted by the board.

On page 305, the court said:

> "An assessment of property which violates the provisions of a state constitution requiring uniformity of taxation, and which is a class discrimination, also deprives the owner of the equal protection of the law guaranteed by the Fourteenth Amendment."

In *Nashville, etc., Co.* v. *Taylor*, 86 Fed., 168, which was a case almost identical with the preceding case, Mr. Justice Clark said on page 186:

> "It may be true that the proposition that a tax statute or the tax laid under a statute is in violation of the constitution of the state, is not of itself necessarily sufficient to constitute a violation of the Fourteenth Amendment; but when, in addition to the violation of the state constitution, the statute results in an arbitrary and oppressive discrimination in regard to a large class of citizens, or a large species of property, it is such class legislation, and such denial of the equal protection as renders it obnoxious to the Fourteenth Amendment, and the state constitution is important in determining what the rights of the citizens are and whether equal protection of the law is being denied."

Louisville Trust Company v. *Stone*, 107 Fed., 305, decided by the Court of Appeals, was a suit brought to enjoin the board of valuation and assessment of the State of Kentucky from assessing the property of the complainant at more than 70 per cent. of the face value thereof, that being the value placed on other property, whereas the complainant's property was taxed at its full value.

On page 305 Mr. Justice Day said:

> "It may be conceded that, if the allegations of the bill are made out, there exists in respect to the property of complainant and others similarly

> situated a systematic intentional and illegal undervaluation of the property by the taxing officers of the state which necessarily affects an unjust discrimination against the property of which the plaintiff is the owner, and bill in equity will lie to restrain such an illegal discrimination and in such cases federal jurisdiction will arise because of the equal protection of the laws guaranteed by the Fourteenth Amendment."

This court has decided cases which on principle are very like the case at bar, in regard to discrimination against national banks. Section 5219 of the Revised Statutes of the United States provides that national bank stock may be taxed by the states, but that it shall not be taxed "at a greater rate than other moneyed capital."

This statute, while limiting the right of the state to put this particular kind of property in a class by itself for purposes of taxation, means nothing more or less than that the state shall not deny to national banks the equal protetcion of the taxing laws, and it has repeatedly been held by this court that the guaranty of equal protection, contained in that act, is violated, if any injurious discrimination results either from the state law itself or by the administration of a valid law.

Cummings v. *National Bank*, 101 U. S., 153, was an action by a national bank to restrain the Treasurer of Lucas County, Ohio, from collecting a tax against it based on an assessment of its shares of stock at their full value, while other personalty was assessed at sixtenths of its value. There was a constitutional requirement of equal protection in Ohio, similar to the provisions of Illinois.

On pages 157 and 158 the court said:

> "We are of the opinion that when a rule or system of valuation is adopted by those whose duty it is to make the assessment, which is designed to operate unequally and to violate a fundamental principle of the constitution, and when this rule is applied not solely to one individual, but to a large class of individuals or corporations, that equity may properly interfere to restrain the operation of this unconstitutional exercise of power."

To the same effect are *National Bank* v. *Kimball*, 103 U. S., 732, and *Stanley* v. *Supervisors of Albany*, 121 U. S., 535.

In *San Francisco National Bank* v. *Dodge*, 197 U. S., 70, the agreed statement of facts showed that certain things entered into the valuation of National Bank stocks which did not enter into the valuation of State Bank stocks, and the court said on page 81:

> "From this analysis it results that in one case, that of National Baks, not only the value of all the tangible property, but also the value of all the intangible elements above referred to is assessed and taxed, whilst in the other case, that of State Banks and other money corporations, their property is taxed, but the intangible elements of value which we have indicated are not assessed and taxed, the consequence being to give rise to the discrimination against National Banks and in favor of State Banks and other moneyed corporations forbidden by the act of Congress."

It was also expressly decided that though "no conflict necessarily arises between the federal statute and a state law solely because the latter provides one method of taxation for State Banks and another method for National Banks, if there is no actual discrimination against the shares of the National Banks

resulting from the difference in method," still, "if, irrespective of the fact of the law, the system created by the state law in its practical execution produces an actual and material discrimination against National Banks it does conflict with Sec. 5219, Rev. St., U. S., and is void."

Sec. 5219, Rev. St., U. S., is only applicable to National Banks and these decisions hold that any method of making them pay more than their fair proportion of taxes is in conflict with that statute whether the tax is the resutl of the law itself or its administration.

The Constitution of Illinois is for the benefit of all citizens and it provides that there shall be equality of taxation, and any statute of that state which failed in itself to produce equality would be unconstitutional. Following the reasoning of the above cases the administration of a law producing inequality would make its operation illegal even though the law itself was valid.

The act of the State of California was a denial of the equal protection of the tax laws of that state to the National Bank and therefore its act was unlawful as being against the Act of Congress, and in the act of the State of Illinois in the administration of its laws by its officers denying to the appellee the protection of constitutional requirement of equality was a denial to the appellee of the equal protection of the laws of Illinois, and is therefore within the prohibition of the Federal Constitution.

Upon the record, therefore, it appears that the assessments made upon the corporations named in the

writ did not and could not, upon any theory, be the judgment of the State Board of Equalization; and that the result arrived at by the State Board in literally following the construction placed upon the writ of mandamus under which the board felt it was compelled to act, that is to say, that the board could not equalize the full value of the capital stock and take into consideration the rate of assessment of other property throughout the state, is unequal, discriminating, unjust and arbitrary and violates the provision of the Fourteenth Amendment of the Constitution of the United States in denying to the appellee the equal protection of the law.

That such action was by the State has already been demonstrated in a prior portion of this brief.

Respectfully submitted,

WM. W. GURLEY,
Of Counsel for Appellee.

ARTHUR DYRENFORTH,
HOWARD M. CARTER,
Solicitors for Appellee.

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, A. D. 1907

No. 715

ROBERT A. RAYMOND, County Treasurer of Cook County, Illinois, and as Collector of Cook County, Ill., and JOHN J. HANBERG, as Successor to said County Treasurer and County Collector, et al.,

Appellants,

vs.

CHICAGO UNION TRACTION COMPANY,

Appellee.

Appeal from the Circuit Court of the United States for the Northern District of Illinois.

APPELLANTS' REPLY BRIEF.

JAMES HAMILTON LEWIS,
Corporation Counsel of the City of Chicago.
DAVID E. TOBEY,
Special Counsel for said City.
HARRY A. LEWIS,
County Attorney of Cook County.
WILLIAM W. HEALD and
FRANK T. SHEPARD,
Assistant County Attorneys of said County.
WILLIAM H. REMY,
Attorney General for State of Illinois.
GEORGE S. GILLESPIE,
Special Assistant Attorney General of said State,
Counsel for Appellants.

Supreme Court, U. S.
FILED
OCT 28 1907
JAMES H. MCKENNEY
Clerk

IN THE

Supreme Court of the United States

OCTOBER TERM, A. D. 1906.

No. 424

SAMUEL B. RAYMOND, County Treasurer of Cook County, Illinois, and *ex officio* County Collector of Cook County, Illinois; JOHN J. HANBERG, his Successor as such County Treasurer and County Collector, *et al.*,

Appellants,

vs.

CHICAGO UNION TRACTION COMPANY.

Appeal from the Circuit Court of the United States for the Northern District of Illinois.

APPELLANTS' REPLY BRIEF.

REPLY TO ARGUMENT CONTAINED IN APPELLEE'S STATEMENT OF FACT. (Appellee's Brief, pp. 1 to 21.)

The greater portion of the so-called "Statement of Facts," contained in the brief of appellee's counsel, consists of argument. For that reason we beg leave to submit the following reply to such portions of it that have not already been answered in the original brief:

It is true, as stated in the brief of appellee's counsel (pp. 8 to 9), that the Mayor of the City of Chicago, the Teachers' Federation and many public spirited citizens of the City protested against the

palpable omission of duty on the part of the State Board in failing to assess the capital stock and franchises of corporations. The indignation, however, was a righteous one, prompted solely with a view of compelling the corporations in question to bear their just share of the public burden—a thing which in the past the corporations had evaded by inducing the members of the State Board of Equalization to betray the people's interests.

These protests of the many public spirited citizens named did not, however, operate to the detriment of appellee; for the evidence contained in this transcript shows that they fell upon deaf ears. All these protests were in vain, for it was not until a peremptory writ of mandamus was issued by the Circuit Court on the 2nd of November, 1901, that the State Board of Equalization finally discharged its official duty with reference to making the assessment complained of.

If public sentiment was unduly aroused against appellee and the corporations associated with it in the mandamus suit, these corporations were justly responsible for the righteous indignation which this record shows they stirred up. The record in this case shows that the capital stock and bonded indebtedness of the appellee, and its five lessor corporations were worth, according to the quotations of the Chicago Stock Exchange, on the 1st of April, 1900, over $80,000,000. The State Board of Equalization, in its first assessment, made December 3, 1900, fixed the full value of the capital stock and bonded indebtedness of the appellee at but $3,000,000, took one-fifth of that as the assessed value, making $600,000, and omitted altogether to

assess the capital stock and franchises of the other five lessor corporations.

The market value of the stocks and bonds of appellee's five lessor corporations, omitted altogether from the assessment of December 3, 1900, amounted to more than $69,000,000.

No wonder that the poor laborer who is assessed on his meagre personal property, or his house and lot, and compelled to pay his full share of taxation, would be stirred into indignation when the criminal conduct of the State Board was brought to his attention, and when he discovered that the officers and managers of these mighty corporations were defending the criminal conduct of this Board by employing counsel and paying fees, in the attempt to bolster up this dishonest assessment.

Corporations who lend themselves to such dishonest manipulations must not complain if the public conscience is finally aroused, and through the medium of the court and the force of public sentiment they are finally compelled to bear some portion of their just burden of taxation.

Counsel's further contention (p. 12) that the reassessment made on November 22, 1901, was made with the "greatest possible haste," is hardly sustained by the record, when we bear in mind that on November 10, 1901, a petition for a writ of mandamus was filed in the Circuit Court of Sangamon County, and from that time until the 22nd of November, 1901, the State Board of Equalization were in continuous litigation with the relators in the mandamus suit. The one question which was in issue in that suit, and concerning which hundreds of pages of testimony was taken, was the value of the capital

stock and franchises of the appellee and the other corporations on April 1, 1900. The members of the State Board of Equalization were defended, both in the Circuit Court of Sangamon County and in the Supreme Court of Illinois, by John S. Miller, whose fees were paid by the appellee and the other corporations. It is folly to argue that the members of the State Board of Equalization, after all this litigation, were ignorant of the value of the capital stock and franchises of the appellee and its lessor corporations. Surely, if there ever was a case where the Board was in possession of the necessary facts from which to make a fair and just assessment, the re-assessment of 1901 was that case.

Equally untenable is the contention of appellee's counsel, that the re-assessment of the capital stock and franchises of appellee made on November 22, 1901, as and for April 1, 1900, was exorbitant. We have pointed out in our original brief (pp. 128 to 139), that the scheme of capitalizing the alleged net income of the appellee and its lessor corporations, was directly contrary to the laws of the State of Illinois, and that the appellee and its lessor corporations should be assessed upon the fair cash value of their capital stock and franchises as of the 1st of April, 1900; that for the purpose of determining such fair cash value, the decision of the Supreme Court of Illinois, approved by decisions of this court in *State Railroad Tax Cases,* 92 U. S., 575, required that the market or fair cash value of the corporations' shares of stock should be added to its debt (excluding the indebtedness for current expenses) and that the aggregate should be the fair

cash value of the capital stock and franchises of such corporation.

On November 22, 1901, the State Board of Equalization fixed the full value of the capital stock and bonded indebtedness of appellee, under the above rule, at $70,321,600 (Trans., 246).

Counsel for appellee make no attempt to show that the above figures were not the fair cash market value of the capital stock and bonded indebtedness of appellee on April 1, 1900, when determined in accordance with the rules of the State Board of Equalization, but counsel content themselves with indulging in a number of impassioned exclamations in reference to the astonishing size of such figures. We will meet those alleged exclamations of surprise on the part of appellee's counsel, by showing from the undisputed quotations of the Chicago Stock Exchange, that the full value fixed by the State Board of Equalization upon the capital stock and bonded indebtedness of the appellee and its lessor corporations was more than *$10,000,000 below the actual market value of the securities.*

George A. Yuille, a Chicago stock broker, and prior to January 1, 1901, the Assistant General Manager of appellee, testified that the market value of the bonds of appellee's five lessor corporations on April 1, 1900, was par, and said witness also gave in detail the market value of the respective stocks of the appellee and its five lessor corporations. (Trans., pp. 303 to 307.)

Said witness stated that he was familiar with the value of the property, and said witness also stated that he based his valuations of the bonded indebtedness and the capital stock of the appellee and its

lessor corporations upon his own knowledge of actual values, acquired while he was its assistant general manager, taken in connection with the quotations of the Chicago Stock Exchange.

Taking the testimony of said Yuille, and the computations made by him, we find that the fair cash value of the stock and the bonded indebtedness of the appellee and its lessor corporations on April 1, 1900, was as follows:

WEST CHICAGO STREET RAILROAD COMPANY:	
Stock @ $110	$14,507,900.00
Bonds @ par	12,201,000.00
CHICAGO PASSENGER RAILWAY COMPANY:	
Stock @ $75	$ 1,005,225.00
Bonds @ par	400,000.00
CHICAGO WEST DIVISION RAILWAY COMPANY:	
Stock @ $750	$ 9,375,000.00
Bonds @ par	4,070,000.00
NORTH CHICAGO STREET RAILROAD COMPANY:	
Stock @ $224	$17,744,800.00
Bonds @ par	4,744,000.00
NORTH CHICAGO STREET RAILWAY COMPANY:	
Stock @ $500	$ 2,500,000.00
Bonds @ par	3,000,000.00
CHICAGO UNION TRACTION COMPANY:	
Preferred stock @ $75	$ 9,000,000.00
Common stock @ $25	5,000,000.00
Total	$83,547,925.00

It will be observed that in the foregoing table we have in each instance taken the lowest quotation

given by Mr. Yuille. The foregoing is the only evidence with reference to the fair cash value, as evidenced by stock market quotations, of the capital stock and bonded indebtedness of the appellee and its lessor corporations. It will be observed that the State Board of Equalization fixed the full value of the capital stock and bonded indebtedness of the appellee, and its five lessor corporations, at more than $12,000,000 less than the market value of these securities.

It is folly to talk about fraudulent over valuation in the face of the foregoing uncontradicted evidence to the contrary, contained in this record.

We shall not enter into any discussion of counsel's argument in reference to the deductions to be drawn from the testimony of the four members of the State Board of Equalization in reference to the operation of their minds at the time they made the assessment complained of, for this court has expressly held in a very recent decision that such evidence is incompetent. *Chicago, Burlington & Quincy Ry. Co.* v. *Babcock*, decided February 25, 1907; Advance Sheets, Lawyers' Co-operative Publishing Co. for February 1, 1907, page 326.

Counsel for appellee dwell at length upon the alleged insolvency of the appellee, the appointment of a Receiver over its property, and the litigation with the City of Chicago over the so-called 99 year act.

It is to be remembered that the Receiver of the Chicago Union Traction Company was not appointed until April 22, 1903 (*Blair* v. *City of Chicago*, 201 U. S., 400), and that the 99 year litigation was not instituted by the appellee until July 18, 1903.

The re-assessment complained of was made on

November 22, 1901, and in that re-assessment the Board was required to value the property as and for April 1, 1900. Neither on April 1, 1900,—the date for which the assessment was made—nor on November 22, 1901,—the day the assessment was actually made—was there the slightest suspicion in financial circles that the appellee was insolvent, or that a Receiver for its property would ever be applied for. If an assessment that is fair and equitable when made can be overturned by the consideration of matters that occur subsequent thereto, and which were unknown to the public and the Board at the time the assessment was made, there would be no stability to assessments made by public officials.

In *National Bank of Commerce* v. *New Bedford*, 175 Mass., 257 (262), a similar contention was thus disposed of by Justice Holmes:

> "Generally speaking, when a statute requires the 'fair cash value' of property on a certain day to be ascertained (Pub. Sts., Ch. 13, Par. 8), it refers to the *actual judgment of the public as expressed in the price which someone will pay, not to what the court at a* LATER *time may think would have been a wiser opinion.* It means the highest price that a normal purchaser, not under peculiar compulsion, will pay at *that time* to get that thing."

Testing the assessment made by the State Board of Equalization in the light of the foregoing opinion, so eminently sound, it follows that the re-assessment complained of, confessedly fair and honest when made, cannot be overturned by the occurrence of subsequent events which at that time were not

suspected either by the investing public, or the State Board.

Counsel for appellee also calls attention to the fact that the officers of appellee testified on the hearing that all the property of appellee and its lessor corporations, real, personal and franchises, were worth only about $34,000,000. This testimony is not at all surprising, for who ever heard of a corporation valuing its property for taxing purposes at more than one-half of what the corporation is willing to sell the property for to the investing public.

This is especially true when we are dealing with franchises, the values of which are to a large extent mere matters of opinion.

It is true that this court in the so-called 99-year cases, decided that many franchises of the appellee and its lessor corporations had expired; but this court also decided that many important franchises, both on the North and on the West sides, continued in force until the City should buy the tangible property and the power houses of the appellee, and its respective lessor corporations. The expiration of the franchises of a public service corporation that has a monopoly in the streets of a municipality does not, as a general rule, materially diminish the market value of its securities. Purchasers of stocks and bonds in the money markets of the world know that such a corporation, in practically every instance, obtains an extension of its franchise. Public indignation and public protests may temporarily interfere with the extension of such franchises, but the almost universal rule is that public indignation sooner or later gives way to public apathy, and then

the corporation finally gets what it is after. The market value of the securities of the appellee and its lessor corporations was not materially impaired by the adverse decision in the 99-year cases.

The result of the recent election, in which the people approved the granting of a twenty-year franchise to a corporation, organized for the benefit of the appellee and its lessor corporations, illustrates the wisdom of the judgment of Wall street in not being unduly alarmed over the alleged depreciation of securities, occasioned by the expiration of franchises.

Counsel for appellee also institute a comparison between the re-assessment of November 22, 1901, and the assessment of December 23, 1901. They say that these assessments were made upon the same properties only a month apart. That statement, while literally true, does not express the real facts, for the re-assessment of November 22, 1901, was made as and for April 1, 1900. So, the assessments were made with reference to the ownership of the property of the appellee and its lessor corporations at times more than a year apart. There is no evidence in this record that the property possessed by the appellee and its lessor corporations was the same on April 1, 1901, that it was on April 1, 1900. The franchises of appellee were confessedly worth less on April 1, 1901, than they were on April 1, 1900, for the time when many of them were about to expire was one year nearer, without extensions having been secured from the City.

Again, there is nothing in the record to show (except the report of the State Board of Equalization), that the assessment of the capital stock and fran-

chises of the appellee, made Dece ber 23, 1901, represented the fair cash value of th capital stock and franchises of appellee. The record affirmatively shows that the assessment made on November 22, 1901, of the capital stock and franchises of appellee was about twenty per cent less than the fair, cash market value of the stocks and bonds of appellee on that date.

Surely, an assessment which the undisputed evidence shows, even without reference to the records of the Board itself, was fair and just, cannot be set aside because it was less than another assessment, and especially when there is nothing to show that the second assessment was fair and equitable. Independently of that, we have already pointed out (original brief, p. 112) that the assessment of December 23, 1901, was made under a different set of rules from the re-assessment of November 22, 1901, and therefore no comparison can properly be made between the two assessments.

Chicago, Burlington & Quincy Ry. Co. v. *Babcock*, Lawyers' Co-operative Publishing Co. Advance Sheets, April 1, 1907, page 326, was a case where a bill was filed for the purpose of setting aside an assessment made upon the property of the Railroad Company by the State Board of Equalization of the State of Nebraska. There the bill of complaint charged political coercion, fraud, public clamor and many other allegations substantially of the character contained in the bill of complaint in this case. The evidence offered in support of the various allegations was very much like the evidence contained in this record and the language of this court, in holding that that evidence was insufficient to over-

come the assessment made by the State Board of Equalization and returned in the manner provided by law, is particularly pertinent to the case at bar. Concerning the assessment made by said Board, this court there said (page 329):

> "But the action does not appear to have been arbitrary except in the sense in which many honest and sensible judgments are so. They express an intuition of experience which outruns analysis and sums up many unnamed and tangled impressions—impressions which may lie beneath consciousness without losing their worth. The board was created for the purpose of using its judgment and its knowledge. (*State Railroad Tax Cases,* 92 U. S., 575; 23 L. Ed., 663; *State ex rel. Bee Bldg. Co.* v. *Savage,* 65 Neb., 714, 768, 769; 91 N. W., 716; *Re Cruger,* 84 N. Y., 619, 621; *San Jose Gas Co.* v. *January,* 57 Cal., 614, 616.) Within its jurisdiction, except, as we have said, in the case of fraud or a clearly shown adoption of wrong principles, it is the ultimate guardian of certain rights. The state has confided those rights to its protection and has trusted to its honor and capacity as it confides the protection of other social relations to the courts of law. Somewhere there must be an end. We are of opinion that, whatever grounds for uneasiness may be perceived, nothing has been proved so clearly and palpably as it should be proved, on the principle laid down in *San Diego Land & Town Co.* v. *National City,* 174 U. S., 739, 754; 43 L. Ed., 1154, 1160; 19 Sup. Ct. Rep., 804, in order to warrant these appeals to the extraordinary jurisdiction of the Circuit Court."

It will be observed that the foregoing language was used in a case where the Circuit Court had acquired jurisdiction by reason of the diversity of the citizenship of the parties and where that court had

the same power as would a state court to enforce the laws of the State of Nebraska.

Counsel for appellee have divided their brief into four subdivisions and under said subdivisions contend for the following propositions:

I. The jurisdiction of a federal court is not dependent upon the ultimate decision of the question, but upon the power of the court to hear and determine the question (pp. 25 to 30).

II. The acts complained of are the acts of the state (pp. 31 to 64).

III. The appellee has been deprived of its property without due process of law (pp. 64 to 103).

IV. The appellee has been denied the equal protection of the law (pp. 103 to 120).

We will consider the various contentions of appellee's counsel in the order above indicated.

I.

JURISDICTION.

Counsel for appellee say that (Brief, p. 25):

> "The jurisdiction of a court, federal or state, is not dependent upon the ultimate decision of a question, but upon the power of the court to hear and determine the question."

Counsel further say that they have shown in their bill of complaint,

> "A claim in good faith that appellee has property, a claim in good faith that it has been, or is about to be, taken, a claim in good faith that such taking is by the state through its duly appointed officers, acting for the state."

Counsel argue that wherever a claim is made in

good faith, that a state has deprived a person of his property without due process of law, a Circuit Court of the United States will have jurisdiction even though the allegations of the bill of complaint show that the deprivation is occasioned not by the act of the *state* but by the *subordinate officers of the state, acting contrary to and in contravention of the laws of the state.* And counsel argue that where the claim is made in *good faith* that the deprivation is by the act of the *state* even though the bill on its face shows the deprivation to be merely the illegal and unauthorized act of the subordinate officers of the state, a Circuit Court of the United States will assume jurisdiction and administer the laws of the state in precisely the same way as would the state court under like circumstances.

Under counsel's theory, if a claim is made in *good faith* that a case arises "under the Constitution or laws of the United States," a Circuit Court of the United States should assume jurisdiction even though the face of the bill shows that the case was not one "arising under the Constitution or laws of the United States." Under counsel's theory the jurisdiction of a Circuit Court of the United States would depend, not upon the question whether a case *arose under the Constitution or laws of the United States*, but upon the *bona fides of a complainant's claim* that such a case arose under the Constitution or laws of the United States, and the mere fact that the Circuit Court had the jurisdiction to determine the *bona fides* of complainant's claims under the doctrine asserted would give the court jurisdiction of the entire case. An examina-

tion of the decisions of this court will clearly demonstrate that counsel's contention is unfounded in fact.

The proposition as to whether a federal question is presented has arisen in this court in the following cases:

First. Writs of error to the highest courts of the state.

Section 709, Revised Statutes (4 Fed. St., Ann., p. 467), provides that the final judgment of the highest court of a state may be removed to this court on a writ of error,

> "*where is drawn in question* the validity of a treaty or statute of, or an authority exercised under, the United States, and the decision is against their validity; or *where is drawn in question* the validity of a statute of, or an authority exercised under, any state, on the ground of their being repugnant to the Constitution, treaties, or laws of the United States, and the decision is in favor of their validity; or where any title, right, privilege, or immunity is *claimed* under the Constitution, or any treaty or statute of, or commission held or authority exercised under, the United States, and the decision is against the title, right, privilege, or immunity specially set up or claimed," etc.

It will be noted that the jurisdiction of this court to review on writ of error the judgments of the highest courts of the state depends upon a *claim* made in good faith in the court below.

Second. Appeals or writs of error taken from the District or Circuit Courts direct to this court.

The Act of March 3, 1891, creating the Circuit

Court of Appeals (4 Fed. St., Ann., 398) provides that appeals or writs of error may be taken from the District or Circuit Courts, direct to this court, in cases where the constitutionality of any law of the United States "is drawn in question," or where the constitution or law of a state "is claimed to be" in contravention of the Federal Constitution. Here again a *claim made in good faith* gives this court jurisdiction regardless of whether such a claim is well founded in point of law.

Third. Cases brought in a Circuit Court of the United States, because arising under the Constitution or the laws of the United States.

When, however, we come to consider the cases in which the Circuit Court of the United States may exercise original jurisdiction regardless of the citizenship of the parties, a different question is presented. By Section 1 of the Act of March 3, 1875, as amended by the Act of August 13, 1888 (4 Fed. St., Ann., 265), Circuit Courts of the United States are given original jurisdiction regardless of the diversity of the citizenship of the parties (where the amount in controversy exceeds two thousand dollars), in all cases "arising under the Constitution or laws of the United States, or treaties made or which shall be made under their authority." It will be noted that before a Circuit Court of the United States can assume jurisdiction under the act quoted, the case must actually *arise* under the Constitution or the laws of the United States. A *claim in good faith* that a case arises under the Constitution or the laws of the United States avails nothing.

The difference in the phraseology of the Act last above quoted from the other two raises the presumption that Congress intended a difference in the meaning. It was the evident intention of Congress, that the appellate jurisdiction of this court in the cases above enumerated should depend upon the proposition whether the Federal questions there designated were in good faith "drawn in question." But a profoundly different proposition is presented when we come to consider the circumstances under which a Circuit Court of the United States can exercise original jurisdiction where there is no diversity of the citizenship of the parties, or other independent grounds of Federal jurisdiction. In such cases Congress intended not merely that some interpretation of the Constitution of the United States should be *raised in good faith*, but the jurisdiction under the above circumstances was only conferred on our National courts where the case was one actually "arising under the Constitution and the laws of the United States."

There were obvious reasons of public policy why a litigant party who had exhausted all efforts to obtain justice in the state courts, should be permitted to invoke the exercise of the appellate jurisdiction of this court where he in good faith had raised a federal question in the court below. Those reasons did not at all apply to a party who had never made an attempt to obtain a hearing in the courts of the state of which he was a resident and a citizen, but who invoked in the first instance the original jurisdiction of the National courts.

Congress intended that in the latter cases such a party should not be permitted to seek redress in a

federal court, unless his case was one *actually arising under the Constitution and the laws of the United States.* An examination of the decisions of this court will demonstrate that the doctrine we are here contending for is sustained by numerous decisions of this court.

It is a doctrine well settled by the decisions of this court that

> "the fundamental question of jurisdiction, first, of this court, and then of the court from which the record comes, presents itself on every writ of error or appeal and must be answered by the court, whether propounded by counsel or not."
>
> (*Defiance Water Co.* v. *Defiance,* 191 U. S., 184-194.)

And also that

> "when the inquiry involves the jurisdiction of a federal court—the presumption in every stage of a cause being that it is without the jurisdiction of a court of the United States, unless the contrary appears from the record."
>
> *Lehigh Mining & Mfg. Co.* v. *Kelly,* 160 U. S., 327-336.

In *Defiance Water Co.* v. *City of Defiance,* 191 U. S., 184, a bill was filed claiming that the obligation of the City's contract with the Water Company was impaired by an ordinance of said city. The Circuit Court assumed jurisdiction but dismissed the bill of the Water Company upon its merits. This Court held that the Circuit Court was without jurisdiction and reversed the decree of the Circuit Court and remanded the cause to that court with directions to dismiss the Company's bill for want of jurisdiction. This court there said (p. 190):

"Diverse citizenship did not exist, and unless the case was one arising under the Constitution or laws of the United States, the jurisdiction of the Circuit Court was not properly invoked, and should not have been maintained.

"We have repeatedly held that when a suit does not *really and substantially involve a dispute or controversy as to the effect or construction of the Constitution or laws of the United States, upon the determination of which the result depends, it is not a suit arising under the Constitution or laws.* And it must appear on the record, by a statement in legal and logical form, such as is required in good pleading, that the suit is one which does really and substantially involve a dispute or controversy as to a right which depends on the construction of the Constitution or some law or treaty of the United States, before jurisdiction can be maintained on this ground."

This court, after pointing out that the case was one not actually arising under the Constitution or the laws of the United States, said (p. 194):

"The Circuit Court having maintained jurisdiction on the ground that the case arose under the Constitution of the United States, and having proceeded to decree, the appeal was properly brought directly to this court, and it at once became our duty to inquire whether the Circuit Court should have retained the case. Having reached the result that the court erred in so doing, we are vested with the power to direct that conclusion to be carried into effect, and in its exercise we discharge one of our essential functions—the determination of the jurisdiction of the courts below. (Citing authorities.)

"The bill was dismissed by the Circuit Court, but not for want of jurisdiction, and the decree will be reversed in order that the case may be

> disposed of on that ground, at the costs of appellant, which takes nothing by its appeal.
>
> "The decree is reversed at appellant's costs, and the cause remanded, with instructions to dismiss the bill for want of jurisdiction."

Appellee's counsel contend that an assertion of a right arising under the Constitution of the United States in good faith gives a Circuit Court original jurisdiction even though the claim so asserted is unfounded in fact. It is clear that such a contention is directly contrary to the case just quoted from.

Not only was the bill in the case under consideration filed in good faith, but the Circuit Court actually held that a case was made out cognizable in a Circuit Court of the United States, thus demonstrating the bona fides of the federal question raised. It will be noted that the court in the foregoing case determined not whether a question arising under the Constitution of the United States was raised in *good faith,* but whether a case "really and substantially" arose under the Constitution of the United States.

In *Arbuckle* v. *Blackburn*, 191 U. S., 405-413, this court, in defining when a suit was one arising under the Constitution of the United States, so as to give a Circuit Court of the United States original jurisdiction, said (413):

> "The rule is firmly established that a suit does not so arise unless it really and substantially involves a dispute or controversy as to the effect or construction of the Constitution, upon the determination of which the result depends, and which appears on the record by a statement in legal and logical form, such as is required in good pleading."

In the *Arbuckle* case the bill of complaint alleged

that an Act of the legislature of the state of Ohio prohibited the manufacture and sale of adulterated food products, that the complainant was engaged in the manufacture of Arbuckle coffee, that the coffee so manufactured by complainant was not adulterated, but that the food commissioner of the state charged with the enforcement of the law in question had notified complainant that his coffee was adulterated and that complainant must discontinue the manufacture and sale of the same. This court held that the above allegations did not make out a case originally cognizable in a Circuit Court of the United States because the aggrieved party could get full relief in the state court, and said:

> "It is not asserted that this police regulation is in contravention of the Constitution of the United States, but it is said that when the Commissioner, in the discharge of his duty under the law, reached the conclusion that the coating of Ariosa with a glaze of sugar and eggs was calculated to conceal damage or inferiority, and to make the article appear better or of greater value than it really was, and that the article was not a compound or mixture, and proposed to prosecute, he thereby construed the act in a way, which, if his construction were correct, would render it unconstitutional.
>
> "But these were findings of fact which resulted in bringing the article within the prohibition, and excluded it from the proviso, and neither findings nor prosecutions would in themselves constitute a deprivation of property, or a denial of the equal protection of the law, by the state, or any direct interference with interstate commerce, and the constitutionality of the statute was conceded.
>
> "The suggested controversy was purely hypothetical, and based the supposed constitutional

objections on the contingency that, on issues of fact, it might be judicially determined that Ariosa came within the statute, which complainants denied.

"*If the Commissioner's conclusions were erroneous, the courts were open for the correction of the error,* and the possibility that they might agree with the Commissioner could not be laid hold of as tantamount to an actual controversy as to the effect of the Constitution on the determination of which the result of the present suit depended."

The above case is conclusive of the proposition that where a law is just and fair upon its face but the officers of the state charged with the duty of executing that law deprive a person of his property contrary to such law, that deprivation cannot be imputed to the state so as to make a case originally cognizable in the Circuit Court of the United States.

In *Newburyport Water Co.* v. *Newburyport,* 193 U. S., 561, a bill was filed seeking to obtain relief against alleged impairment of contractual obligations on the part of the city. This court held that the Circuit Court was without jurisdiction and said (page 576):

"If jurisdiction is to be determined by the mere fact that the bill alleged constitutional questions, there was, of course, jurisdiction. But that is not the sole criterion. On the contrary, it is settled that jurisdiction does not arise simply because an averment is made as to the existence of a constitutional question, if it plainly appears that such averment is not real and substantial, but is without color of merit. (*Underground R. Co.* v. *New York,* 193 U. S., 416; *ante,* 733; 24 Sup. Ct. Rep., 494;

Arbuckle v. *Blackburn*, 191 U. S., 405; *ante*, 239; 24 Sup. Ct. Rep., 148; *Owensboro* v. *Owensboro Waterworks Co.*, 191 U. S., 358; *ante*, 217; 24 Sup. Ct. Rep., 82; *Defiance Water Co.* v. *Defiance*, 191 U. S., 184; *ante*, 140; 24 Sup. Ct. Rep., 63; *Swafford* v. *Templeton*, 185 U. S., 487; 46 L. Ed., 1005; 22 Sup. Ct. Rep., 783; *McCain* v. *Des Moines*, 174 U. S., 168, 181; 43 L. Ed., 936, 941; 19 Sup. Ct. Rep., 644, and cases cited.) Whether the Constitution of the United States was and is, in a real and substantial sense, involved, depends upon apparently two considerations: First, the proposition that the sale made by the company to the city was compulsory, and hence there was a taking of the property in disregard of due process of law; and, second, that the failure of the Commissioners to value the future profits arising from the contract for the furnishing for fires of a water supply to the city impaired the obligations of the company's contract."

The case of *Barney* v. *City of New York*, 193 U. S., 429, is conclusive of the contention of counsel for appellee that a case originally cognizable in a Circuit Court of the United States is made out whenever it is alleged and *claimed in good faith* that the state deprives a person of his property without due process of law. There a bill of complaint was filed in the Circuit Court of the United States for the Southern District of New York seeking to enjoin the City of New York, the Board of Rapid Transit Commissioners of said city and certain contractors from proceeding with the construction of an underground railway adjacent to the premises of the complainant. It was there alleged that said railway was being built twenty-seven feet nearer to the premises of the complainant than was

authorized by the routes and plans which had been previously approved in accordance with the laws of the State of New York, and that said Board, contrary to the laws of the State of New York, had prepared plans and authorized said contractors to build said railway at a place unauthorized by law and that said contractors were about to construct the same; that the building of said railway in the manner unauthorized by law would be depriving complainant of his property without due process of law in violation of the 14th Amendment to the Constitution of the United States.

The Circuit Court dismissed said bill for want of jurisdiction. This court affirmed the judgment of the Circuit Court dismissing the bill for want of jurisdiction, and held that if the City of New York and its Board of Rapid Transit Commissioners were proceeding with the construction of the railway at a place unauthorized by the laws of the State of New York and in a manner contrary to said laws, the deprivation was not the act of the state but the mere act of the subordinate officers of the state, and that the remedy for the misconduct of such officers should be sought in the courts of the state.

There can be no doubt but what the complainant in that case in good faith asserted a claim arising under the Constitution of the United States, and if counsel's contention be sound that the mere allegation in good faith of the deprivation of property without due process of law gives a Federal Court jurisdiction, then the Circuit Court was in error in dismissing the bill of complaint in the Barney case,

and this court likewise erred in affirming the decree of the Circuit Court.

Counsel for appellee claim that even though the deprivation of the property of the appellee was occasioned by the State Board of Equalization acting contrary to and in violation of the laws of the State of Illinois, that question is one arising on the merits and does not touch the jurisdiction of the Circuit Court. The *Barney* case distinctly overturns counsel's contention for it was there held that the Circuit Court rightly dismissed the bill of complaint for the sole reason that the illegal and unauthorized acts of public officials, contrary to the laws of the state, did not constitute state action.

The case of *Manhattan Railway Company* v. *New York*, 18 Fed., 195, was cited with approval by this court, in the *Barney* case. We must therefore assume that this court was familiar with the opinion in the *Manhattan Railway Company* case, on the question of jurisdiction, and that this court approved the action of the Circuit Court in dismissing the bill in that case for want of jurisdiction.

The opinion in the *Manhattan Railway Company* case is conclusive of the proposition that the Circuit Court was without jurisdiction in the case at bar. In the *Manhattan Railway Company* case the bill of complaint charged that the assessing officers of the state had unlawfully discriminated between the property of the Railway Company and the property of other persons and corporations; that they had taxed the property of the Railway Company in cases where individuals were not taxed; that the property of the Railway Company was subject to a higher and different rate of taxation than the

property of other corporations engaged in a like kind of business within the state. All this, it was alleged, was done in violation of the laws of the State of New York.

The Circuit Court held that the above allegations did not confer jurisdiction where there was no diversity of citizenship, and said (p. 197):

> "If the authorities of the City of New York are endeavoring to enforce the collection of taxes against the complainants, which have not been assessed in conformity with the statutes of the state, if the taxing authorities, under color of law, are proceeding illegally, their action cannot be imputed to the state, and the constitutional provision need not be invoked and does not operate; and the complainants can obtain ample redress under the laws of the state."

Continuing, the court said (p. 199):

> "The suit, therefore, is not one arising under the constitution or laws of the United States, and as no diversity of citizenship exists between the parties this court cannot decide it."

As this court affirmed the judgment of the Circuit Court dismissing the *Barney* case for want of jurisdiction, and cited the *Manhattan Railway Company* case with approval, we must assume that this court is necessarily committed to the doctrine that where a bill of complaint shows upon its face that the sole grievance of which a party complains is, that that party is deprived of his property by the officers of the state, contrary to the laws of the state, the unauthorized acts of the state officers cannot be imputed to the state so as to give a Circuit Court of the United States jurisdiction, where there is no diversity of citizenship.

There is no intimation or suggestion in any of the cases that the good faith of the complainant in making such an allegation will give a Circuit Court of the United States original jurisdiction, where under the allegations of the bill a case does not arise under the constitution or the laws of the United States.

REVIEW OF THE AUTHORITIES ON THE QUESTION OF JURISDICTION CITED BY APPELLEE'S COUNSEL.

We have pointed out that the mere fact that a claim is made in good faith that a case is one arising under the Constitution of the United States does not make out a case cognizable in a Circuit Court of the United States, where there is no diversity of the citizenship of the parties. An examination of the decisions cited by appellee's counsel tends to sustain our position.

Chicago Life Ins. Co. v. *Needles*, 113 U. S., 574, was a writ of error from this court to the Supreme Court of the State of Illinois, to review the action of the latter court in affirming a judgment of the Circuit Court of Cook County perpetually enjoining an insurance company from doing business in the State of Illinois. The State Circuit Court based its decree upon a statute of the State of Illinois, which, it was claimed, was repugnant to the Constitution of the United States. A motion was made to

dismiss the writ of error, and this court, in denying that motion (p. 579), said:

> "This court, therefore, has jurisdiction to inquire whether any right or privilege protected by the Constitution of the United States, has been withheld or denied by the judgment below. And our jurisdiction is not defeated because it may appear, upon an examination of the federal question, that the statutes of Illinois are not repugnant to the provisions of that instrument. Such an examination itself involves the exercise of jurisdiction."

It will be observed that this decision was based upon Section 709, Revised Statutes, which in explicit terms provided that a judgment of a State Supreme Court could be reviewed in this court on writ of error where the validity of a statute of the state, on the ground of its being repugnant to the Constitution of the United States, was "drawn in question."

City of New Orleans v. *New Orleans Water Works Company,* 142 U. S., 79, was a writ of error from this court to the Supreme Court of Louisiana, to review a judgment of that court, reversing a judgment of the Civil District Court for the Parish of Louisiana, adjudging a contract for supplying the City of New Orleans with water, and the ordinance authorizing it, and the Act of the Legislature of 1884, unconstitutional and void.

The writ of error was prosecuted upon the ground that the ordinance and the legislative act in question impaired contractual obligations.

This court reached the conclusion that the claim asserted by the appellants was frivolous, and did

not present a case reviewable in good faith in this court, and hence, dismissed the appeal.

Penn. Mut. Life Ins. Co. v. *Austin,* 168 U. S., 685, was an appeal from the decree of the Circuit Court of the United States for the Western District of Texas, dismissing the bill of the insurance company for want of equity.

That case merely held that where a bill of complaint showed the existence of a valid contract, and alleged that that contract had been impaired by the laws of the State of Texas, a decree of the Circuit Court dismissing the bill was appealable directly to this court, under the 5th Section of the Act of March 3, 1891, creating the Circuit Court of Appeals, which act conferred upon this court jurisdiction to review by direct appeal any final judgment rendered by the Circuit Court in any case in which the Constitution or the law of a state was *claimed* to be in contravention of the Constitution of the United States.

The power of this court to review the decree in question was based upon the peculiar wording of the above statute, which allowed an appeal in any case where the law of the state was *claimed* to be in contravention of the Constitution of the United States, for Justice White, in sustaining the right of appeal, said:

> "But the words of the statute which empower this court to review directly the action of the Circuit Court are that such power shall exist wherever it is *claimed on the record* that a law of a state is in contravention of the Federal Constitution. Of course, the claim must

be real and colorable, not fictitious and fraudulent."

Counsel for appellee have cited but two cases that deal with the question as to when a Circuit Court of the United States can assume jurisdiction, independently of the diversity of the citizenship of the parties, on the ground that the case is one "arising under the Constitution or the laws of the United States," namely: *City Railway Company* v. *Citizens Street Railroad Co.*, 166 U. S., 557, and *Coulter* v. *Louisville & N. R. R. Co.*, 196 U. S., 599.

In the *City Railway Company* case, a bill was filed to enjoin the Citizens Street Railway Company from constructing and operating a street car system in the City of Indianapolis, and to declare void a certain ordinance passed by said city granting the right to operate said street railway to the Citizens Company, upon the ground that said ordinance impaired a prior contract entered into by ordinance with the City Railway Company.

This court there said (p. 563):

> "That the complainant had a contract with the city is entirely clear."

And, further,

> "That the city did attempt to impair this contract by the agreement of April 24, 1893, with the City Railway Company, and its ordinance ratifying the same, is equally clear."

This court there affirmed, with certain modifications the decree of the Circuit Court enjoining the Citizens Company from operating its street railway

system. The *City Railway* case, therefore, is certainly no authority for the proposition that a claim in good faith of a violation of the Federal Constitution gives the court jurisdiction, even though the bill of complaint shows on its face that the case is not one arising under the Constitution of the United States.

The case of *Coulter* v. *Louisville and Nashville R. R. Co.*, 196 U. S., 599, does not sustain counsel's contention.

That was a bill filed by the Railroad Company, a citizen and resident of the State of Kentucky, seeking to enjoin the collection of a tax levied upon the company's property pursuant to an assessment made by the State Board of Equalization of the State of Kentucky, upon the ground that the property of persons generally throughout the state was assessed far below its cash value, while the property of the Railway Company was assessed, contrary to the laws of the state, at its actual cash value. This violation of the laws of Kentucky, it was claimed, deprived the Railroad Company of the equal protection of the laws, contrary to the 14th Amendment. This court, after pointing out that the bill of complaint did not make out a case cognizable by the Circuit Court, said:

> "But as the claim of right under the United States Constitution was not merely colorable (*Penn. Mut. L. Ins. Co.* v. *Austin*, 168 U. S., 685-695; 42 L. Ed., 626-630; 18 Sup. Ct. Rep., 223), and as the evidence is here, we have considered the evidence also, and our conclusion from that, as well as from the law, is that the bill must be dismissed."

This court further said:

> "But the supposed infringement of the 14th Amendment is the only ground on which the Railroad Company could come into the Circuit Court, and if that ground fails, and obviously fails, the court should be very cautious, at least, in interfering with the state's administration of its taxes upon other considerations which would not have given it jurisdiction."

We have already pointed out that the case of *Penn. Mut. L. Ins. Co.* v. *Austin*, 168 U. S., 685, is not in point, for in that case this court assumed jurisdiction on appeal, because it was claimed in good faith that a law of the state of Texas contravened the Federal Constitution. The very concluding sentence of the opinion in the *Coulter* case shows that the real ground of this court's decision was that complainant had not made out a case cognizable in the Circuit Court, for this court there said:

> "Recalling once more that we are dealing with a case that *properly was not cognizable in the Circuit Court*, we are of opinion that the bill must be dismissed."

II.

THE ACTS COMPLAINED OF ARE NOT THE ACTS OF THE STATE.

(Reply to Appellee's Brief, pp. 31 to 64.)

Counsel for appellee argue that the acts of the State Board of Equalization, even when that Board is acting contrary to and in contravention of the laws of the State of Illinois, should be imputed to the State. This conclusion they arrive at because the State Board of Equalization, it is asserted, "is

the supreme taxing agency of the sovereign state." That statement is not borne out by the laws of the State of Illinois. The county assessors are required to assess the real estate and the tangible property of persons and corporations. The county boards of review are required to equalize the assessments thus made. The power of the State Board of Equalization with reference to the assessments made by the County Board of Assessors and as equalized by the County Board of Review is limited to equalizing the assessments between the respective counties.

The State Board of Equalization has no power to change individual assessments on real estate and tangible personal property of persons and corporations. The authority of the county assessors and the County Boards of Review is supreme in that regard.

The State Board of Equalization is vested with the exclusive power to assess as original assessors, the capital stock and franchises of corporations, and in that regard the State Board exercises the same power that is exercised by the county assessing officers, with reference to real estate and tangible property. The amount of taxes to be levied, and the rate at which the taxes are to be extended, is determined by the Legislature of the State of Illinois and by various municipal corporations of the State, exercising the delegated functions of the State in that regard.

The State Board of Equalization, the County Boards of Assessors and the County Boards of Review have no power except to fix the values of property for taxing purposes. The determination of the amount of taxes to be collected, and the rate at

which said taxes are to be extended is the exercise of a legislative function. That legislative function is not exercised by the State Board of Equalization. Fixing the value of property for taxing purposes is the exercise of a ministerial and *quasi* judicial function.

If counsel's contention be sound—that the act of an official, either State, county or municipal—who fixes the value of property for taxing purposes, is the act of the State, the result would be that any assessment made by any of the many municipal officers of the State could be impeached by the exercise of the original jurisdiction of the Circuit Court of the United States, on the ground that such action constituted State action. No authorities are cited by counsel for appellee sustaining the above contention, and we have cited many decisions in our original brief to the effect that valuing property for taxing purposes is merely the execution of a State law, by the subordinate officers of the State, and if such taxing officers proceed contrary to law, relief from their illegal and prohibited acts must be sought in the State courts.

The decisions of this court in *C. B. & Q. R. R. Co.* v. *Chicago*, 166 U. S., 226, and *Scott* v. *McNeal*, 154 U. S., 34, merely hold that where the Supreme Court of a State, by its decision, deprives a person of his property, without due process of law, a writ of error may issue from this court to review such action under the Fourteenth Amendment. But the rule of this court is firmly established that where a law is just and fair upon its face, and a subordinate court, by its construction of such a law, deprives a person of his property, without due process of law, the

jurisdiction of a federal court cannot be invoked until the aggrieved party has exhausted his remedy in the highest court of his State. So, if we should concede that the State Board of Equalization deprived the appellee of his property, without due process of law, contrary to the constitution and the laws of the State of Illinois, appellee could get full relief by going into a court of equity of the State.

The case of *Reagan* v. *Farmers' L. & T. Co.*, 154 U. S., 362, is not in point, because there the Legislature of the State of Texas had delegated to a commission the power to establish railroad rates. The law is well settled by the decisions of this court, that the power to fix the rates of a public service corporation is the exercise of a legislative function under the police power of the State.

Munn v. *Illinois*, 4 Otto, 113, 125.

If the Legislature itself had fixed railroad rates, no one would question the fact that the act of the Legislature was the act of the State. Now where the Legislature had delegated this function to a commission the act of the commission was necessarily the act of the State. This is based upon the same principle that an ordinance passed by a municipal corporation under authority delegated to the municipality by the State, is State action within the meaning of the Fourteenth Amendment. The ministerial and quasi-judicial function of fixing valuations of property for taxing purposes has never been exercised by State Legislatures, and has never been held to be State action, within the meaning of the Fourteenth Amendment.

The case of *Railroad and Telephone Companies* v.

Board of Equalization, 85 Fed., 302, is not in point, because federal jurisdiction existed in that case by reason of the diversity of the citizenship of the parties.

The case of *Nashville C. & St. L. Ry.* v. *Taylor*, 86 Fed., 168 (C. C.), and the same case in the Circuit Court of Appeals, *Taylor* v. *L. & N. R. R. Co.*, 88 Fed., 350, do not sustain counsel's contention. The Federal Circuit Court there acquired jurisdiction by reason of the diversity of the citizenship of the parties.

The facts in the case of *Taylor* v. *L. & N. R. R. Co.*, *supra*, that gave the Federal Court jurisdiction were thus stated by the Circuit Court of Appeals (88 Fed., 356):

> "The complainant below is a citizen of the State of Kentucky. The defendants are citizens of the State of Tennessee. The amount involved in the suit exceeds $2,000. The Constitution and laws of the United States confer upon Circuit Courts of the United States jurisdiction to hear and determine controversies in law and equity between citizens of different states, in which is involved more than $2,000."

True, Circuit Judge Clark, in his opinion in the court below in the *Taylor* case, pointed out that the court had jurisdiction, because of alleged violations of the Fourteenth Amendment, but the statement of Judge Clark was purely *obiter*, because jurisdiction existed by reason of diversity of citizenship, and the Court of Appeals did not approve of what Judge Clark said on the question of jurisdiction, for the latter court, in the opinion just quoted from, based its jurisdiction solely upon diversity of citizenship.

Judge Day, then Circuit Judge, in *L. & T. Co.* v. *Stone, supra*, assumed that federal jurisdiction would exist because of violations of the Fourteenth Amendment, and cited the *Taylor* case in support of it, referring to the opinion of Judge Clark. As the opinion of Judge Clark was *obiter*, manifestly it was not authority for the proposition contended for.

It will be observed that the opinion of Judge Clark in the *Taylor* case was directly contrary to the decision of the Circuit Court of the Southern District of New York in the case of *Manhattan Railway Company v. City of New York*, 18 Fed., 195.

In the case of *Barney* v. *City of New York*, 193 U. S., 430, this court cited with approval the *Manhattan Railway Company* case and did not at all refer to the *Taylor* case, thus indicating that the doctrine of the *Taylor* case was not approved by this court. Justice Day, who was a member of the Court of Appeals of the Sixth Circuit when the *Taylor* and *Stone* cases were before that court, did not dissent from the opinion of this court in the *Barney* case and therefore presumably was satisfied that the opinion by Judge Clark did not correctly lay down the law on the question under consideration.

The contention made in the brief of appellee's counsel (p. 55) that the assessment made by the State Board of Equalization on the capital stock and franchises of appellee was "by the highest court of the State in which a decision of that question could be had," is clearly untenable.

Would counsel argue that if a county assessor made an unfair or unequal assessment upon a piece of real estate that that assessment was the act of

the highest tribunal of the State? Would counsel claim that if a county collector should seize property under a void warrant, in contravention of the laws of the State, that the action of such an official would be the action of the State? Clearly not; for in all such cases the aggrieved party must go into the courts of his State for redress. So, in the case at bar, the fact that a board is called a State board can make no difference so long as that board is merely exercising the same duties as do the local assessors, namely, the function of fixing the valuation of property for taxing purposes.

III.

APPELLEE WAS NOT DEPRIVED OF HIS PROPERTY WITHOUT DUE PROCESS OF LAW.

(Reply to Appellee's Brief, pp. 64 to 103.)

The greater portion of appellee's argument under this subdivision consists of a review of testimony of four of the members of the State Board of Equalization in reference to the operation of their minds at the time the re-assessment here complained of was made. It is claimed that the testimony of the above members shows that the members of the State Board of Equalization did not exercise their own judgment in making the assessment complained of, but returned an assessment for the amount and in the manner that said members believed the court wanted them to assess the property. And it is also argued that the said members of the Board of Equalization neglected to equalize the assessments of the property of the appellee and its lessor corporations with the

assessments made upon other property throughout the State for the same year.

We have already demonstrated that the above contentions are unfounded. It is needless, however, to enter into any discussion of the testimony of the members of the State Board, for this court has expressly decided in the very recent case of *Chicago B. & Q. Ry. Co.* v. *Babcock* (Lawyers' Co-operative Pub. Co. Advance Sheets, April 1st, 1907, p. 326), that the members of a State Board of Equalization cannot testify in reference to the operation of their minds at the time they made an assessment. The following quotation from the opinion of this court in that case disposes of counsel's entire argument:

> "When we turn to the evidence there is equal ground for criticism. The members of the Board were called, including the Governor of the State, and submitted to an elaborate cross examination with regard to the operation of their minds in valuing and taxing the roads. This was wholly improper. In this respect the case does not differ from that of a jury or an umpire, if we assume that the members of the Board were not entitled to the possibly higher immunities of a judge. (*Buccleuch* v. *Metropolitan Bd. of Works*, L. R., 5 H. L., 418, 433.) Jurymen cannot be called, even on a motion for a new trial in the same case, to testify to the motives and influences that led to their verdict. (*Mattox* v. *United States*, 146 U. S., 140; 36 L. Ed., 917; 13 Sup. Ct. Rep., 50.) So as to arbitrators. (*Buccleuch* v. *Metropolitan Bd. of Works*, L. R., 5 H. L., 418, 457, 462.) Similar reasoning was applied to a judge in *Fayerweather* v. *Ritch*, 195 U. S., 276, 306, 307; 49 L. Ed., 193, 213, 214; 25 Sup. Ct. Rep., 58. A multitude of cases will be found collected in 4 Wigmore on Evidence, Sections 2348, 2349.

All the often-repeated reasons for the rule as to jurymen apply with redoubled force to the attempt, by exhibiting on cross examination the confusion of the members' minds, to attack in another proceeding the judgment of a lay tribunal, which is intended, so far as may be, to be final, notwithstanding mistakes of fact or law. See *Coulter* v. *Louisville & N. R. Co.*, 196 U. S., 599, 610; 49 L. Ed., 615, 618; 25 Sup. Ct. Rep., 342; *Central P. R. Co.* v. *California*, 162 U. S., 91, 107, 108, 117; 40 L. Ed., 903, 908, 909; 16 Sup. Ct. Rep., 166; 105 Cal., 576, 594; 38 Pac., 905; *State Railroad Tax Cases*, 92 U. S., 575; 23 L. Ed., 663; *Cleveland, C., C. & St. L. R. Co.* v. *Backus*, 133 Ind., 513, 542; 18 L. R. A., 729; 33 N. E., 421. In *Fargo* v. *Hart*, 193 U. S., 490, 496, 497; 48 L. Ed., 761, 764; 24 Sup. Ct. Rep., 498, there was no serious dispute as to what was the principle adopted.

"Again, this Board necessarily kept, and evidently was expected by the statutes to keep, a record. That was the best evidence, at least, of its decisions and acts."

Eliminating the above incompetent evidence which was taken into consideration by the Circuit Court, and which is chiefly relied upon in the brief of appellee's counsel here, there is no evidence contained in this record tending in the slightest degree to sustain the material allegations of appellee's bill of complaint, in reference to the re-assessment made November 22, 1901.

We have pointed out in our original brief (pp. 92 to 115) that each and every other item of evidence contained in this record, with the exception of record of the proceedings of the State Board, was incompetent, and no attempt has been made by counsel for appellee to show the competency of those items of evidence. Counsel for appellee rely sole-

ly upon the testimony of the State Board of Equalization, and disregarding that evidence, as we must, under the above decision of this court, there remains nothing which rises to the dignity of evidence to sustain the finding and decree of the Circuit Court.

Counsel for appellee refer to the testimony of Mr. Yuille, a witness in behalf of appellants (p. 85), and say that Mr. Yuille testified that if the contention of the City of Chicago were sustained in reference to the ninety-nine-year act, the aggregate value of the entire properties of the appellee and its lessor corporations, including ordinance rights, would amount to about $26,000,000.

The conclusive answer to that contention is that the claim of the City of Chicago in the 99-year case was not sustained in its entirety. The City contended that the so-called 99-year act was unconstitutional and void, and that the appellee had no right to operate under the terms of that act. This court distinctly recognized the validity of the so-called 99-year act, but held that the appellee and its lessor corporations only had rights in some of the city streets under said act, and that in others those rights had expired.

Mr. Yuille was not interrogated in reference to what the property of the appellee and its lessor corporations would have been worth had the appellee and its lessor corporations been possessed of the ordinance rights, in accordance with the decision of this court in *Blair* v. *City of Chicago*, 201 U. S., 400.

Again, Mr. Yuille testified in reference to the value of the property and ordinance rights of the appellee and its lessor corporations, on the assumption

that the City's claims were well founded in the year 1904. The proposition presented to the State Board was not the value of the property and ordinance rights of appellee, but the fair cash market value of the capital stock and indebtedness of the appellee and its lessor corporations, on the first of April, 1900.

It is needless to say that in view of the foregoing observations the testimony of Mr. Yuille does not tend in the slightest to impeach the re-assessment made November 22, 1901.

IV.

APPELLEE HAS NOT BEEN DENIED THE EQUAL PROTECTION OF THE LAW.

(Reply to Appellee's Brief, pp. 103 to 120.)

The entire argument of appellee's counsel under this subdivision is based upon the hypothesis that the testimony of the individual members of the State Board of Equalization established that the assessment made on November 22, 1901, of the capital stock and franchises of appellee and its lessor corporations was not equalized with the assessments made upon other property for the same year.

We have already pointed out in our original brief (p. 83) that the record of the State Board of Equalization expressly recites that the capital stock and franchises of appellee and its lessor corporations were assessed at their "fair cash value" and that that record further recites that the assessment was "the *equalized* value of the capital stock, including the franchises, over and above the assessed value."

The evidence of the members of the State Board

of Equalization, which we have already pointed out was incompetent, is the only evidence contained in this record, tending in the slightest degree to impeach the recitals in the records of the State Board, to the effect that the assessments made on the capital stock and franchises of appellee and its lessor corporations were equalized with the assessments made on the other property of the state. In view of this state of the record, the contention that the appellee was denied the equal protection of the law is wholly untenable.

V.

CONCLUSION.

In conclusion, we wish to remind this court that we pointed out in our original brief (p. 144) that, had the Circuit Court followed the method of valuing the capital stock and franchises of appellee and its lessor corporations laid down by the laws of the State of Illinois, instead of adopting the unauthorized and illegal capitalization plan, *the appellee would be required to pay $774,833.97 above the amount ordered to be paid by the Circuit Court.*

We also pointed out in that brief (Original Brief, p. 144) that on complainant's own theory that the re-assessment of 1900 should have been equalized by taking one-fifth of 70 per cent of the value of appellee's stock and bonded indebtedness, instead of the full value, there would still remain due a tax amounting to $435,813.53.

No attempt has been made in the brief of appellee to dispute the accuracy of our contentions in that regard. We therefore insist that even though this court should find that we are in error in our other

contentions, and that the Circuit Court had the jurisdiction and power to make an assessment, the decree in this cause should be reversed, and this cause remanded to the Circuit Court with direction to make an assessment in accordance with the laws of the State of Illinois.

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